

THE INDIAN ELECTRICITY ACT, 1910

INTRODUCTION

The technology revolution has brought electricity to the forefront. To regulate the generation, supply and use of electricity, the first legislation was the Electricity Act of 1887 which provided for the protection of person and property, from injury and risks, attendant to the supply and user of electricity for lighting and other purposes. This Act was repealed and replaced by the Indian Electricity Act, 1903 (3 of 1903). Many practical, electro technical and commercial difficulties were realised during the period of 1903 to 1909. To deal with these difficulties a bill viz. the Indian Electricity Bill was introduced in the Central legislation to amend the law relating to the supply and use of electrical energy.

STATEMENT OF OBJECTS AND REASONS

When the Indian Electricity Act, 1903, was passed it was clearly recognised to be somewhat tentative measure, and it was anticipated that amending legislation would be called for at an early date. Having regard to the experience gained in the practical working of the Act, the Government of India in 1907 came to the conclusion that the time had arrived for undertaking this amending legislation, and they referred various difficulties which had arisen in its working to a Committee on which electro-technical and commercial interests were represented.

The Act as at present framed vests its administration in Local Governments, with whom rests the power to grant licenses; but the authority of the previous sanction of the Governor-General in Council is required in regard to so many matters that the practical result has been a dual administration. In the case of cantonments and similar "places in the occupation of Government for naval or military purposes" the administration of the Act is by section 40 placed in the hands of the Governor-General in Council, but these places are situated within larger areas, in respect to which the Local Government is empowered to grant licenses, with the result that separate, and not necessarily consistent, licenses have been granted by the Governor-General in Council and the Local Government, respectively, to the same licensee for the same purpose, in one and the same place. The practical effect of the present system has been delayed, as it has hitherto been virtually impossible for a company to obtain a license under two or three years. Delays of this nature are obviously most detrimental to the attraction of capital for the development of the resources of the country as the financial position may, and in fact frequently does, change completely between the date of the application and the granting of the license.

Under the Bill, as now drafted, the general administration of the Act, and subject to the control to the Governor-General in Council, the granting of all licenses are left in the hands of the local Government. The rule-making power, and the delegation of the powers of the telegraph-authority to licensees, are reserved to the Governor-General in Council.

Among the more important modifications in the Bill are the following-

- (i) The existing provision making licenses compulsory has been taken out, the question of supply to the public without license being otherwise dealt with. It is by no means certain that licenses are either necessary or desirable in the case of Industrial companies of certain classes.
- (ii) Provision is made for the grant of licenses for "bulk supply", that is to say, to meet cases where the applicant company proposes to generate energy and supply it in large quantities to distributors, who would retail it under a separate license to small consumers.
- (iii) The amendment of licenses has been provided for. At present it is necessary to revoke a license and grant a fresh one in order to effect this object.

(iv) The question of compulsory purchase has been dealt with, in regard both to the splitting up of undertakings and to those cases where purchase may be impracticable. The Act provides for the modification, but not for the omission from a license, of the purchase clauses. But these clauses, conceived as they are in the interests of the local authority concerned in a small area, are entirely out of place, and in Great Britain are regularly omitted, in the case of undertakings covering large areas in which various local authorities intervene. It is proposed, therefore, to modify the provision.

(v) Many difficulties have arisen owing to the hard and fast limits of the area of supply over which a license operates, consumers just outside the boundary being debarred from participation in the benefits conferred by the public supply. A new section is proposed to deal with the matter and remove obstacles which are likely to impose quite unnecessary hardships on individuals.

(vi) It is proposed to amend the provisions of Part III of the Act so as to make them applicable to mines and binding on the Crown. As regards railways and tramways, the provision in sub-section (1) of section 3 in Part II and the first provision in sub-section (1) of section 31 in Part III of the Act as it stands lay down that nothing in these parts respectively relating to the supply or use of energy shall apply to any railway or tramway subject to the provisions of the Indian Railways Act, 1890. The extent to which it is proposed to modify the latter of these provisions is explained in the Notes on Clauses (clause 30) while it is proposed, as already mentioned, to repeal the former.

(vii) A slight amendment of the Land Acquisition Act, 1894, has been proposed with a view to facilitating its application to electrical works.

The examination of the provisions of the Act has brought to light many minor defects of substance or arrangement which it is desirable to correct, and the opportunity has, therefore, been taken to repeal and re-enact the Act with the necessary modification.

ACT 9 OF 1910

The Indian Electricity Bill was passed by the Legislative Council on 18th March, 1910 and it became the Indian Electricity Act, 1910 (9 of 1910) and it came into force with effect from 1st January, 1911.

LIST OF AMENDING ACTS AND ADAPTATION ORDERS

1. The Repealing and Amending Act, 1914 (10 of 1914).
2. The Devaluation Act, 1920 (38 of 1920).
3. The Indian Electricity (Amendment) Act, 1922 (1 of 1922).
4. The Indian Electricity (Amendment) Act, 1923 (4 of 1923).
5. The Repealing and Amending Act, 1925 (37 of 1925).
6. The Government of India (Adaptation of Indian Laws) Order, 1937
7. The Indian Electricity (Amendment) Act, 1937 (10 of 1937).
8. The Arbitration Act, 1940 (10 of 1940).
9. The Repealing and Amending Act, 1940 (32 of 1940).
10. The Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

11. The Adaptation of (Laws) Order, 1950.
 12. The Part B States (Laws) Act, 1951 (3 of 1951).
 13. The Adaptation of Laws (No.2) Order, 1956.
 14. The Indian Electricity (Amendment) Act, 1959 (32 of 1959).
 15. The Delegated Legislation Provisions (Amendment) Act, 1983 (20 of 1983).
 16. The Indian Electricity (Amendment) Act, 1986 (31 of 1986).
 17. The Electricity Laws (Amendment) Act, 1991 (50 of 1991).
 18. The Electricity Laws (Amendment) Act, 1998 (22 of 1998).
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THE INDIAN ELECTRICITY ACT, 1910

(9 of 1910)¹ [18th March, 1910]

An Act to amend the law relating to the supply and use of electrical energy.

WHEREAS it is expedient to amend the law relating to the supply and use of electrical energy; It is hereby enacted as follows: -

PART I

PRELIMINARY

1. Short title, extent and commencement.-(1) This Act may be called the Indian Electricity Act, 1910.

²[(2) It extends to the whole of India ³[except the State of Jammu and Kashmir],]

(3) It shall come into force on such date⁴ as the Central Government may, by notification in the Official Gazette, direct in this behalf.

2. Definitions.-In this Act, expressions defined in the Indian Telegraph Act, 1885 (13 of 1885), ⁵[or in the Electricity (Supply) Act, 1948 (54 of 1948), have the meanings assigned to them in either of those Acts], and unless there is anything repugnant in the subject or context,-

⁶[(a) "appropriate Government" means in re¹lation to any works or electric installations belonging to, or under the control of, the Central Government or in relation to any mines, oil fields, railways, aerodromes, telegraphs, broadcasting stations and any works of defense, the Central Government, and in any other case, the State Government;]

(b) "area of supply" means the area within which alone a licensee is for the time being authorised by his license to supply energy;

⁷[(ba) "area of transmission" means the area within which a transmission licensee or any other person is for the time being authorised to transmit energy;

(bb) "Central Commission" means the Central Electricity Regulatory Commission established under sub-

section (1) of section 3 of the Electricity Regulatory Commissions Act, 1998 (14 of 1998);

1. The Act has been extended to-

Goa, Daman and Diu by Regulation 12 of 1962, sec 3 and Sch., Dadra and Nagar Haveli by Regulation 6 of 1963, sec.2 and Sch.I, to the whole of the Union Territory of Lakshadweep by Regulation 2 of 1970, sec.2 and Sch. This Act has been amended in U.P. by Uttar Pradesh Act 30 of 1961 and Act 14 of 1976, in Assam by Assam Act 9 of 1973, in Gujarat by Gujarat Act 3 of 1974, in Bihar by Bihar Act 15 of 1975, in MP by Madhya Pradesh Act 19 of 1974, in Maharashtra by Maharashtra Act 63 of 1974, in Haryana by Haryana Act 13 of 1975, in Punjab by Punjab Act 10 of 1978 and in Tamil Nadu by Tamil Nadu Act 39 of 1980.

2. Subs. by the A.O. 1950, for the original sub-section.

3. Subs. by Act 3 of 1951, sec.3 and Sch., for "except Part B States".

4. 1st January, 1911, see Gazette of India, 1910, Pt. I, p.1236.

5. Subs. by Act 32 of 1959, sec. 3, for "have the meaning assigned to them in that Act"

6. Subs. by Act 32 of 1959, sec. 3, for the previous clause

7. Ins. by Act 22 of 1998, sec. 2 (w.e.f. 31-12-1998).

(bc) "Central Transmission Utility" means the utility notified by the Central Government under sub-section (1) of section 27 A;] 1[(c) "consumer" means any person who is supplied with energy by a licensee or the Government or by any other person engaged in the business of supplying energy to the public under this Act or any other law for the time being in force, and includes any person whose premises are for the time being connected for the purpose of receiving energy with the works of a licensee, the Government or such other person, as the case may be;]

(d) "daily fine" means a fine for each day on which an offence is continued after conviction thereof;

(e) "distributing main" means the portion of any main with which a service line is, or is intended to be, immediately connected;

1[(f) "electric supply-line" means a wire, conductor or other means used for conveying, transmitting or distributing energy (whether by overhead line or underground cable), together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy and includes any support cross-arm, stay, strut or safety device erected to set up for that purpose;]

1[(g) "energy" means electrical energy--

(i) generated, transmitted or supplied for any purpose, or

(ii) used for any purpose except the transmission of a message;]

2[(ga) "Government company" shall have the meaning assigned to it in section 617 of the Companies Act, 1956 (1 of 1956);

(gb) "inter-State transmission system" means, any system for the conveyance of energy by means of a main transmission line from the territory of one State to another State and includes,-

(i) the conveyance of energy across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-State transmission of energy;

(ii) the transmission of energy within the territory of a State on a system built, owned, operated, maintained or controlled by a Central Transmission Utility or by any person under the supervision and control of a Central Transmission Utility;

(gc) "Intra-State transmission system" means any system for transmission of energy other than an inter-State transmission system;]

(h) "licensee" means any person licensed under Part II to supply energy;

(i) "main" means any electric supply-line through which energy is, or is intended to be, supplied 3[***] to the public;

4[(ii) "overhead line" means an electric supply-line which is placed above ground and in the open air but does not include live rails of a traction system;]

(j) "prescribed" means prescribed by rules made under this Act;

1. Subs. by Act 32 of 1959, sec. 3, for the former clause.

2. Ins. by Act 22 of 1998, sec. 2 (w.e.f. 31-12-1998).

3. The words "by a licensee" omitted by Act 32 of 1959, sec. 3.

4. Ins. by Act 32 of 1959 sec. 3.

(k) "public lamp" means an electric lamp used for the lighting of any street;

1[(1) "service-line" means any electric supply-line through which energy is, or is intended to be, supplied 2[***]--

(i) to a single consumer either from a distributing main or immediately from the 3[supplier's premises], or

(ii) from a distributing main to a group of consumers on the same premises or on adjoining premises supplied from the same point of the distributing main;]

4[(1a) "State Commission" means the State Electricity Regulatory Commission established under sub-section (1) of section 17 of the Electricity Regulatory Commissions Act, 1998 (14 of 1998);

(1b) "State Electricity Board" in relation to any State means the State Electricity Board, if any, constituted for that State under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948) and includes any Board which functions in that State under sections 6 and 7 of the said Act;

(1c) "State Transmission Utility" means the utility notified by the State Government under sub-section (1) of section 27b;]

(m) "street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway; and

5[(ma) "transmission license" means a license granted under Part IIA to transmit energy;

(mb) "transmission licensee" means a person who holds a transmission license;

(mc) "transmit" means conveyance of energy by means of transmission lines and the expression "transmission" shall be construed accordingly;]

6[(n) "works" includes electric supply-line and any building, plant, machinery, apparatus and any other thing of whatever description required to supply energy to the public and to carry into effect the objects of a license or sanction granted under this Act or any other law for the time being in force.]

COMMENT

(i) Where the premises were in the Occupation of the tenant and on whose application service connection for supply of electrical energy was provided and consumed by such tenant, there being no 'privity of contract' between the owner of the premises and the Electricity Board concerned, the owner of the premises was held to be out of the ambit of the definition of consumer; *Fatehchand Murlidhar v. Maharashtra State Electricity Board, Nagpur*, AIR 1985 Bom 71.

(ii) Power to disconnect or stop supply of electric energy is very much implicit in the terms and conditions of supply of electricity as envisaged under this Act, to a person who is neither owner nor lawful occupier of premises, though in the first instance, it is possible that such person may have had availed such connection in the capacity of a 'consumer' as per the definition under this section; *Pawan Kumar Tandon v. NDMC*, AIR 1986 Del 454.

1. Subs. by Act 1 of 1922, sec 2, for the original clause.

2. The words "by a licensee" omitted by Act 32 of 1959, sec. 3.

3. Subs. by Act 32 of 1959, sec. 3, for "licensee's premises"

4. Subs. by Act 22 of 1998, sec. 2 (w.e.f. 31-12-1998).

5. Ins by Act 22 of 1998, sec. 2 (w.e.f. 31-12-1998).

6. Subs. by Act 32 of 1959, sec. 3, for the former clause.

PART II - SUPPLY OF ENERGY

Licenses

3. Grant of licenses.-(1) The State Government may, on application made in the prescribed form and on payment of the prescribed fee (if any) 1[grant after consulting the State Electricity Board, a license to any person] to supply energy in any specified area, and also to lay down or place electric supply-lines for the conveyance and transmission of energy,-

(a) where the energy to be supplied is to be generated outside such area, from a generating station situated outside such area to the boundary of such area, or

(b) where energy is to be conveyed or transmitted from any place in such area to any other place therein, across an intervening area not included therein, across such area.

(2) In respect of every such license and the grant thereof the following provisions shall have effect, namely:

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(a) any person applying for a license under this Part shall publish a notice of his application in the prescribed manner and with the prescribed particulars, and the license shall not be granted--

(i) until all objections received by the State Government with reference thereto have been considered by it:

Provided that no objection shall be so considered unless it is received before the expiration of three months from the date of the first publication of such notice as aforesaid; and

(ii) until, in the case of an application for a license for an area including the whole or any part of any cantonment 2[aerodrome,] fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for 3[defense purposes], the State Government has ascertained that there is no objection to the grant of the license on the part of the 4[Central Government];

(b) where an objection is received from any local authority concerned, the State Government shall, if in its opinion the objection is insufficient, record in writing and communicate to such local authority its reasons for such opinion;

(c) no application for a license under this Part shall be made by any local authority except in pursuance of a resolution passed at a meeting of such authority held after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given;

(d) a license under this part--

1. Subs. by Act 32 of 1959, sec. 4, for "grant to any person a license".

2 Ins. bymm9, sec. 4, for "Engineer-in-Chief, Army Headquarters, India".

(i) may prescribe such terms as to the limits within which, and the conditions under which. the supply of energy is to be compulsory or permissive, 1[***] and generally as to such matters as the State Government may think fit; and

(ii) save in cases in which under section 10, clause (b), the provisions of 2[sections 5 and 6], or either of them, have been declared not to apply, every such licensee shall declare whether any generating station to be used in connection with the undertaking shall or shall not form part of the undertaking for the purpose of purchase under 3[section 5 or section 6];

(e) the grant of a license under this Part for any purpose shall not in any way hinder or restrict the grant of license to another person within the same area of supply for a like purpose;

(f) the provisions contained in the Schedule shall be deemed to be incorporated with and to form part of, every license granted under this Part, save in so far as they are expressly added to, varied or excepted by the license, and shall, subject to any such additions, variations or exceptions which the State Government is hereby empowered to make, apply to the undertaking authorised by the license;

Provided that where a license is granted in accordance with the provisions of clause IX of the Schedule for the supply of energy to other licensees for distribution by them, then, in so far as such license relates to such supply, the provisions of clauses IV, V, VI, VII, VIII and XII of the Schedule shall not be deemed to be incorporated with the license.

4[***1

4. Revocation or amendment or licenses.-(1) The State Government may, if in its opinion the public interest so requires 5[and after consulting the State Electricity Board], revoke a license in any of the

following cases, namely:-

(a) where the licensee, in the opinion of the State Government, makes willful an unreasonably prolonged default in doing anything required of him by or under this Act;

(b) where the licensee breaks any of the terms or conditions of his license the breach of which is expressly declared by such license to render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf of his license or any longer period which the State Government may substitute therefore by order under 6[section 4A, subsection (1)], and before exercising any of the powers conferred on him thereby in relation to the execution of works.-

(i) to show, to the satisfaction of the State Government, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his license, or

1. The words "and as to the limits if price to charged in respect of the supply of energy" omitted by Act 32 of 1959. sec. 4.

2. Subs. by Act 32 of 1959, sec. 4, for "sections 5 and 7".

3. Subs. by Act 32 of 1959, sec. 4, for "section 5 or section 7".

4. Subs. by Act (3) omitted by Act 38 of 1920, sec. 2, sch.I, Pt. 1.

5. Ins. by Act 32 of 1959, sec. 5.

6. Subs. by Act 32 of 1959, sec. 5, for "sub-section (3) ,clause (b)".

(ii) to make the deposit or furnish the security required by his license;

(d) 1[where in the opinion of the State Government the financial position of the licensee is such that he is unable] fully and efficiently to discharge the duties and obligations imposed on him by his license;

2[(e) where a licensee, in the opinion of the State Government, has made default in complying with any direction issued under section 22A.]

3[(2) Where in its opinion the public interest so permits, the State Government may, on the application or with the consent of the licensee, and after consulting the State Electricity Board, and the Central Government where that Government is interested, and if the licensee is not a local authority, after consulting also the local authority, if any,

concerned, revoke a license as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit.

(3) No license shall be revoked under sub-section (1) unless the State Government has given to the licensee not less than three months notice, in writing stating the grounds on which it is proposed to revoke the license and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(4) Where the State Government might under sub-section (1) revoke a license it may instead of revoking the license permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms or conditions so imposed shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.]

4[4A. Amendment of licenses.-(1) Where in its opinion the public interest so permits, the State Government, on the application, of the licensee or otherwise and, after consulting the State Electricity Board, and if the licensee is not a local authority, also the local authority, if any, concerned, may make such alterations and amendments in the terms and conditions of a license, including the provisions specified in section 3, sub-section (2), clause (f), as it thinks fit:

Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the State Government, been unreasonably withheld.

(2) Where the licensee has made an application under sub-section (1) proposing any alterations or amendments in his license, the following provisions shall have effect namely--

(a) the licensee shall publish a notice of the application in the prescribed manner and with the prescribed particulars;

(b) the State Government shall not make any alterations or amendments until all objections received by it with reference to the application within three months from the date of the first publication of the notice have been considered;

(c) in the case of an application proposing alterations or amendments in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defense purposes, the State Government shall not make

1. Subs by Act 32 of 1959, sec. 5 for certain words.

2. Ins. by Act 32 of 1959, sec. 5.

3. Subs by Act 32 of 1959, sec. 5, for sub-sections (2) and (3).

4. Ins. by Act 32 of 1959, sec. 6.

any alterations or amendments except with the consent of the Central Government.

(3) Before making any alterations or amendments in a license otherwise than on the application of the licensee, the State Government shall publish the proposed alterations or amendments in the prescribed manner and with the prescribed particulars and consider all objections received by it with reference to the proposed alterations or amendments within three months from the date of the first publication of the notice; and where alterations or amendments have been proposed in an area of supply such as is referred to in clause (c) of sub-section (2), the State Government shall not make any alterations or amendments except with the consent of the Central Government.]

1[5. Provisions where license of a licensee is revoked.-(1) Where the State Government revokes, under section 4, sub-section (1), the license of a licensee, the following provisions shall have effect, namely:-

(a) the State Government shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect; and on and with effect from that date, or on and with effect from the date, if earlier, on which the undertaking of the licensee is sold to a purchaser in pursuance of any of the succeeding clauses or is delivered to a designated purchaser in pursuance of sub-section (3) all the powers and liabilities of the licensee under this Act shall absolutely cease and determine;

(b) the State Government shall enquire from the State Electricity Board, and where the licensee is not a local authority, also from any local authority constituted from the area within which the whole of the area of supply is included, whether it is willing to purchase the undertaking;

(c) if the State Electricity Board is willing to purchase the undertaking, the State Government shall, by notice in writing require the licensee to sell, and thereupon, the licensee shall sell the undertaking to the State Electricity Board;

(d) if the State Electricity Board is not willing to purchase the undertaking, the State Government shall have the option of purchasing the undertaking and if it elect to purchase, it shall by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to it;

(e) if the State Electricity Board is not willing to purchase the undertaking and the State Government does not itself elect to purchase it, the State Government in any case where the local authority referred to in clause (b) is willing to purchase the undertaking shall by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to that local authority;

(f) if no sale of the undertaking is effected under any of the foregoing clauses and if any other person is willing to purchase the undertaking, the State Government may by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to such other person.

(2) Where an undertaking is sold under sub-section (1) the purchaser shall pay to the licensee the purchase price of the undertaking determined in accordance with the provisions of sub-sections (1) and (2) of section 7A, or as the case may be, sub-section (3) of that section.

(3) Where the State Government issues any notice under sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and

1. Subs. by Act 32 of 1959, sec. 7, for the former sections 5, 6 and 7.

thereupon the licensee shall deliver on a date specified in the notice the undertaking to the designated purchaser pending the determination and payment of the purchase price of the undertaking.

Provided that in any such case, the purchaser shall pay to the licensee, interest at the Reserve Bank rate prevailing at the time of delivery of the undertaking *plus* one per centum, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price.

(4) Where before the date fixed in the notice issued under clause (a) of sub-section (1) as the date on which the revocation of the license shall take effect, no notice has been issued to the licensee requiring him to sell the undertaking or where for any reason no sale of the undertaking has been effected under that sub-section, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that if the licensee does not exercise such option within a period of six months from the aforesaid date, the State Government may forthwith cause the works of the licensee in, under, over, along, or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

COMMENTS

By virtue of sub-section (1), clause (c), on mere receipt of notice sent by the Electricity Board intimating its option to purchase licensee's undertaking, the latter's right to receive price does not get crystallised into a chose-in-action or an optimal exercise; *Maharashtra State Electricity Board v. Thana Electric Co.* AIR 1990 SC 153.

6. Purchase of undertakings.- (1) Where a license has been granted to any person, not being a local authority, the State Electricity Board shall,-

(a) in The case of a license granted before the commencement of the Indian Electricity (Amendment) Act, 1959 (32 of 1959), on the expiration of each such period as is specified in the license; and

(b) in the case of license granted on or after the commencement of the said Act, on the expiration of such period not exceeding 1[thirty] years and of every such subsequent period, not exceeding 1[twenty] years, as shall be specified in this behalf in the license.

have the option of purchasing the undertaking and such option shall be exercised by the State Electricity Board serving upon the licensee a notice in writing of not less than one year requiring the licensee to sell the undertaking to it at the expiry of the relevant period referred to in this sub-section.

(2) Where a State Electricity Board has not been constituted, or if constituted, does not elect to purchase the undertaking, the State Government shall have the like option to be, exercised in the like manner of purchasing the undertaking.

(3) Where neither the State Electricity Board nor the State Government elects to purchase the undertaking, any local authority constituted for an area within which the whole of the area of supply is included shall have the like option to be exercised in the like manner of purchasing the undertaking.

(4) If the State Electricity Board intends to exercise the option of purchasing the undertaking under this section, it shall send an intimation in writing of such intention to

1. Subs. by Act 50 of 1991, sec. 2, for the words "twenty" and "ten" (w.e.f. 15-10-1991).

the State Government at least eighteen months before the expiry of the relevant period referred to in sub-section (1) and if no such intimation as aforesaid is received by the State Government the State Electricity Board shall be deemed to have elected not to purchase the undertaking.

(5) If the State Government intends to exercise the option of purchasing the undertaking under this section, it shall send an intimation in writing of such intention to the local authority, if any, referred to in sub-section (3) at least fifteen months before the expiry of the relevant period referred to in sub-section (1) and if no such intimation as aforesaid is received by the local authority, the State Government shall be deemed to have elected not to purchase the undertaking.

(6) Where a notice exercising the option of purchasing the undertaking has been served upon the licensee under this section, the licensee shall deliver the undertaking to the State Electricity Board, the State Government or the local authority, as the case may be, on the expiration of the relevant period referred to in sub-section (1) pending the determination and payment of the purchase price.

(7) Where an undertaking is purchased under this section, the purchaser shall pay to the licensee the purchase price determined in accordance with the provisions of the sub-section (4) of section 7A.

COMMENTS

(i) By way of notice or on the exercise of the option of purchasing the undertaking by Board, the right of the company to obtain purchase price in accordance with its market value and the obligation of the Board to pay such price do not thereby get crystallized into a debt or actionable claim, till the sale of the undertaking is completed; *Thana Electric Supply Co. Ltd., Bombay v. M.S.E Board*, AIR 1985 Bom 48

(ii) Since the impugned amending and validating Act promulgated subsequent to the take-over of the undertaking concerned were held as 'discriminatory', payment of purchase price had to be made as market value of the undertaking concerned as on the date of the take-over of the same by the Board; *U.P State Electricity Board v. Upper Jumna Valley Electricity Supply Co.Ltd.*, AIR 1988 Cal 336

7. Vesting of the undertaking in the purchaser.- Where an undertaking is sold under section 5 or section

6, then upon the completion of the sale or on the date on which the undertaking is delivered to the intending purchaser under sub-section (6) of section 6, as the case may be, which ever is earlier--

(i) the undertaking shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt, mortgage or similar obligation of the licensee or attaching to the undertaking:

Provided that any such debt, mortgage or similar obligation shall attached to the purchase money in substitution for the undertaking;

(ii) the rights, powers, authorities, duties and obligations of the licensee under his license shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee:

Provided that where the undertaking is sold or delivered to a State Electricity Board of the State Government, the license shall cease to have further operation.

7A.Determination of purchase price.- (1) Where an undertaking of a licensee, not being a local authority, is sold under sub-section (1) of section 5, the purchase price of the undertaking shall be the market value of the undertaking at the time of purchase or where

the undertaking has been delivered before the purchase under sub-section (3) of that section, at the time of the delivery of the undertaking and if there is any difference or dispute regarding such purchase price, the same shall be determined by arbitration.

(2) The market value of the undertaking for the purpose of sub-section (1) shall be deemed to be the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him, for the purpose of undertaking, other than (i) a generating station declared by the license not to form part of the undertaking for the purpose of purchase, and (ii) service-lines or other capital works or any part thereof which have been constructed at the expense of consumers, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant and the state of repair thereof and to the circumstances that they are in such position as to be ready for immediate working and to the suitability of the same for the purpose of the undertaking, but without any addition in respect of compulsory purchase or of goodwill or of any profit which may be or might have been made from the undertaking or of any similar consideration.

(3) Where an undertaking of a licensee, being a local authority, is sold under sub-section (1) of section 5, the purchase price of the undertaking shall be such as the State Government, having regard to the market value of the undertaking at the date of delivery of the undertaking, may determine.

(4) Where an undertaking of a licensee is purchased under section 6, the purchase price shall be the value thereof as determined in accordance with the provision of sub-section (1) and (2):

Provided that there shall be added to such value such percentage, if any, not exceeding twenty per centum of that value as may be specified in the license on account of compulsory purchase.]

8. Provisions where no purchase and license revoked with consent of licensee.- Where, on the expiration of any of the periods referred to 1[section 6, sub-section (1)], 1[the undertaking is not purchased by the State Electricity Board, the State Government or the local authority], and the license is, on the application or with the consent of the licensee, revoked, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that, if the licensee does not exercise such option within a period of six months, the State Government may proceed to take action as provided in 2[section 5, sub-section (4), proviso].

9. Licensee not to purchase, or associate himself with, other licensed undertaking or transfer his

undertaking.- (1) The licensee shall not, at any time without the previous consent in writing of the State Government, acquire, by purchase or otherwise, the license or the undertaking of, or associate himself so far as the business of supplying energy is concerned with any person supplying, or intending to supply, energy under any other license, and, before applying for such consent, the licensee shall give not less than one month's 3[notice of the application--

(a) to the State Electricity Board; and

(b) to every local authority both in the licensee's area of supply and also in the area in which such other person supplies, or intends to supply, energy]:

1. Subs. by Act 32 of 1959, sec. 8, for certain words.

2. Subs. by Act 32 of 1959, sec. 8, for "section 5, clause (f), proviso"

3. Subs. by Act 32 of 1959, sec. 9, for certain words.

Provided that nothing in this sub-section shall be construed to require the consent of the State Government for the supply of energy by one licensee to another in accordance with the provisions of clause IX of the Schedule.

(2) The licensee shall not at any time assign his license or transfer his undertaking, on any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the State Government.

(3) Any agreement relating to any transaction of the nature described in sub-section (1) or sub-section (2), unless made with, or subject to, such consent as aforesaid, shall be void.

10. General power for Government to vary terms of purchase.-Notwithstanding anything in 1[sections 5, 6 and 8], the State Government may, 2[***] in any license to be granted under this Act,-

(a) vary the terms and conditions upon which, and the periods on the expiration of which, the licensee shall be bound to sell his undertaking, or

(b) direct that, subject to such conditions and restrictions (if any) as it may think fit to impose, the provisions of the said sections or any of them shall not apply.

11. Annual accounts of licensee.-(1) Every licensee shall, unless expressly exempted from the liability by his license, or by order in writing of the State Government, prepare and render to the State Government or to such authority as the State Government may appoint in this behalf, on or before the prescribed date in each year, an annual statement of accounts of his undertaking made up to such date, in such form, and containing such particulars, as may be prescribed in this behalf.

(2) The licensee shall keep copies of such annual statement at his office and sell the same to any applicant at a price not exceeding five rupees per copy.

Works

12. Provision as to the opening and breaking up of streets, railways and tram-ways.-(1) Any licensee may, from time to time but subject always to the terms and conditions of his license, within the area of supply, or, when permitted by the terms of his license to lay down or place electric supply-lines without the area of supply. without that area-

(a) open and break up the soil and pavement of any street, railway or tramway;

- (b) open and break up any sewer, drain or tunnel in or under any street, railway or tramway;
- (c) lay down and place electric supply-lines and other works;
- (d) repair, alter or remove the same; and
- (e) do all other acts necessary for the due supply of energy.

(2) Nothing contained in sub-section (1) shall be deemed to authorise or empower licenser, without the concern of the local authority or of the 3[owner or occupier] concerned, as the case may be, to lay down or place any electric supply-line, or other work in, through or against any building, or on, over or under any land not dedicated to public use whereon, wherever or whereunder any electric supply-line or work has not already been lawfully laid down or placed by such licensee:

1. Subs. by Act 32 of 1959, sec. 10, for "section 5, 7 and 8".
2. The words "with the previous sanction of the G.G. in C." omitted by Act 38 of 1920, sec. 2 and Sch. I, Pt. I.
3. Subs. by Act 32 of 1959, sec. 11, for "owner and occupier".

Provided that any support of an 1[overhead line] or any stay or strut required for the sole purpose of securing in position any support of an 1[overhead line] may be fixed on any building or land or, having been so fixed, may be altered, notwithstanding the objection of owner or occupier of such building or land, if the District Magistrate or, in a Presidency-town 2[* * *], the Commissioner of Police by order in writing so directs:

Provided also, that if at any time the owner or occupier of any building or land on which any such support, stay or strut has been fixed shows sufficient cause, the District Magistrate or, in a Presidency-town 2[***], the Commissioner of Police may by order in writing direct any such support, stay or strut to be removed or altered.

(3) When making an order under sub-section (2), the District Magistrate or the Commissioner of Police, as the case may be, shall fix the amount of compensation or of annual rent, or of both, which should in his opinion be paid by the licensee to the owner or occupier.

(4) Every order made by a District Magistrate or a Commissioner of Police under sub-section (2) shall be subject to revision by the State Government.

(5) Nothing contained in sub-section (1) shall be deemed to authorise or empower any licensee to open or break up any street not repairable by 3[the Central Government or the State Government] or a local authority, or any railway or tramway, except such streets, railways or tramways (if any), or such parts thereof, as he is specially authorised to break up by his license, without the written consent of the person by whom the street is repairable or of the person for the time being entitled to work the railway or tramway, unless with the written consent of the State Government:

Provided that the State Government shall not give any such consent as aforesaid, until the licensee has given notice by advertisement or otherwise as the State Government may direct, and within such period as the State Government may fix in this behalf, to the person above referred to, and until all representations or objections received in accordance with the notice have been considered by the State Government.

4[(6) In this section, "occupier" of any building or land means a person in lawful occupation of that building or land.]

COMMENTS

(i) The right of the tenant relating to conversion of D.C. Current to AC Current in the tenanted premise was protected by the Amendment Act (32 of 1959) whereby the words "owner or occupier" were substituted in sub-section (2) of this section, giving a disjunctive meaning or interpretation thereto and thereby clearly implying that the supply of electricity now being matter between the occupier and the licensee, the landlord in the capacity of the owner of the said premises was not entitled to ordinarily stand in the way; *Ratnamala Dasi v. Ratan Singh*, AIR 1990 Cal 26

(ii) The Act of fixing poles and larging over-head electric lines in private property will be authorised in the absence of prior permission of the District Magistrate when the resistance is offered by the owner of such private property; *Surat Singh v. M.C.D.*, AIR 1989 Del 51.

(iii) If a person occupying the premises lawfully as tenant is derived consent by his/her landlord for obtaining electric supply, whether afresh or by way of addition, the prescribed authority would

1. Subs. by Act 32 of 1959, sec. 2, for "aerial line".

2. The words "or Rangoon" omitted by the A.O. 1937.

3. Subs. by A.O. 1937, for "the Government".

4. Ins. by Act 32 of 1959, sec. 11.

be required to be approached by such person for necessary permission so as to comply with the request provisions of this Act. On such permission being granted by the prescribed authority, the owner (landlord) of the premises would be deemed to have given the requisite concerned under sub-section (2) of this section; *Shantilal Keshavlal Pathak v. Asstt. Collector, Vadodra*, AIR 1990 Guj 147.

13. Notice of new works.-(1) Where the exercise of any of the powers of a licensee in relation to the execution of any works involves the placing of any works, in, under, over, along or across any street, part of a street, railway, tramway, canal or waterway, the following provisions shall have effect, namely:-

(a) not less than one month before commencing the execution of the works 1[***] the licensee shall serve upon the person responsible for the repair so the street or part of a street (hereinafter in this section referred to as "the repairing authority") or upon the person for the time being entitled to work the railway, tramway, canal or waterway (hereinafter in this section referred to as "the owner"), as the case may be, a notice in writing describing the proposed works together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed work, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally, and intimating the manner in which, and the time at which, it is proposed to interfere with or alter any existing works, and shall, upon being required to do so by the repairing authority or owner, as the case may be, from time to time give such further information in relation thereto as may be desired;

(b) if the repairing authority intimates to the licensee that it disapproves of such works, section of plant, or approves thereof subject to amendment, the licensee may, within one week of receiving such intimation, appeal to the State Government, whose decision, after considering the reasons given by the repairing authority for this action, shall be final;

(c) if the repairing authority fails to give notice in writing of its approval or disapproval to the licensee, within one month, it shall be deemed to have approved of the works, section and plan, and the licensee, after giving not less than forty-eight hour' notice in writing to the repairing authority, may proceed to carry out the works in accordance with the notice and the section and plan served under clause (a);

(d) if the owner disapproves of such works, section or plan, or approves thereof subject to amendment, he may, within three weeks, after the service of the notice under clause (a), serve a requisition upon the licensee demanding that any question in relation to the works or to compensation, or to the obligations of the owner to others in respect thereof, shall be determined by arbitration, and thereupon the matter shall

unless settled by agreement, the determination by arbitration;

(e) where no requisition has been served by the owner upon the licensee under clause (d), within the time named, the owner shall be deemed to have approved of the works, section and plan, and in that case, or where after a requisition for arbitration the matter has been determined by arbitration, the works may, upon payment or securing of compensation, be executed according to the notice and the section and plan, subject to such modifications as may have been determined by arbitration or agreed upon between the parties.

1. Certain words and brackets omitted by Act 32 of 1959, sec. 12.

1[*Explanation*-In clauses (a) to (e) the word "works" includes a service-line in, under, over, along or across a railway even if such line is immediately attached to a distributing main, but does not include-

(i) any other service-line so attached or intended to be so attached to a distributing main, or

(ii) works which consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered;]

(f) where the works to be executed consist of the laying of any under ground service-line immediately attached, or intended to be immediately attached, to a distributing main, the licensee shall give to the repairing authority or the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works;

(g) where the works to be executed consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered, the licensee shall, except in case of emergency, give to the repairing authority, or to the owner, as the case may be, not less than forty-eight hours' notice in writing of his intention to execute such works, and, on the expiry of such notice, such works shall be commenced forthwith and shall be carried on with all reasonable dispatch, and, if possible, both by day and by night until completed.

(2) Where the licensee makes default in complying with any of this provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

(3) Notwithstanding any thing in this section, the licensee may, in case of emergency due to the break down of an underground electric supply-line, after given notice in writing to the repairing authority or the owner, as the case may be, office intention to do so, place an 2[overhead line] without complying with the provisions of sub-section (1):

Provided that such 2[overhead line] shall be used only until the defect in the underground electric supply-line can be made good, and in no case (unless with the written consent of the Sate Government) for a period exceeding six weeks, and shall be removed as soon as may be after such defect is removed.

14. Alternation of pipes or wire.- (1) Any licensee may alter the position of any pipe (not forming, in a case where the licensee is not a local authority, part of a local authority's main sewer), or of any wire under or over any place which he is authorized to open or break up, if such pipe or wire is likely to interfere with the exercise of his powers under this Act; and any person may alter position of any electric supply-lines or works are likely to interfere with the lawful exercise of any powers vested in him.

(2) In any such case as aforesaid the following provisions shall, in the absence of an agreement to the contrary between the parties concerned, apply, namely:-

(a) not less than one month before commencing any alteration, the licensee or other person desiring to make the same (hereinafter in this section referred to as "the operator") shall serve upon the person for the

time being entitle to the pipe,

1. Ins. by Act 32 of 1959, sec. 12.

2. Subs. by Act 32 of 1959, sec. 2, for "aerial line".

Wire, electric supply-lines or works, as the case may be (hereinafter in this section referred to as "the owner"), a notice in writing, describing the proposed alteration, together with a section and plan thereof on a scale sufficiently large to show clearly the details of the proposed works, and not in any case smaller than one inch to eight feet vertically and sixteen inches to the mile horizontally and intimating the time when it is to be commenced, and shall subsequently give such further information in relation thereto as the owner may desire;

(b) within fourteen days after the service of the notice, section and plan upon owner, the owner may serve upon the operator a requisition to the effect that any question arising upon the notice, section or plan shall be determined by arbitration, and thereupon the matter shall, unless settled by agreement, be determined by arbitration;

(c) every arbitrator whom a reference is made under clause (b), shall have regard to any duties or obligations which the owner is under, and may require operator to execute any temporary or other works so as to avoid as far as possible, interference therewith;

(d) where no requisition is served upon the operator under clause (b) within the time named, or where such a requisition has been served and the matter has been settled by agreement or determined by arbitration, the alteration may, upon payment or securing of any compensation accepted or determined by arbitration, be executed in accordance with the notice, section and plan and subject to such modifications as may have been determined by arbitration or agreed upon between the parties;

(e) the owner may, at any time before the operator is entitled to commence, alteration, serve upon the operator a statement in writing to the effect that he desires to execute the alteration himself and requires the operator to give security for the repayment of any expenses as may be agreed upon or, in default of agreement, determined by arbitration;

(f) where a statement is served upon the operator under clause (e), he shall, not less than forty-eight hours before the execution of the alteration is required to be commenced, furnish such security and serve upon the owner a notice in writing intimating the time when the alteration is required to be commenced, and the manner in which it is required to be made; and thereupon the owner may proceed to execute the alteration as required by the operator;

(g) where the owner declines to comply, or does not, within the time and in manner prescribed by a notice served upon him under clause (f), comply with the notice, the operator may himself execute the alteration;

(h) all expenses properly incurred by the owner in complying with a notice served upon him by the operator under clause (f) may be recovered by him from the operator.

(3) Where the licensee or other person desiring to make the alteration makes default in complying with any of these provisions, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration.

15. Laying of electric supply-lines or other works near sewers, pipes or other electric supply-lines or works.-(1) Where--

(a) the licensee requires to dig or sink any trench for laying down any new electric supply-lines or other works, near to which any sewer, drain, water-course or work under the control of the State Government or

of any local authority, or any pipe, syphon, electric supply-line or other work belonging to any duly authorised person, has been lawfully placed, or

(b) any duly authorised person requires to dig or sink any trench for laying down or constructing any new pipes or other works, near to which any electric supply-lines or works of a licensee have been lawfully placed, the licensee or such duly authorized person, as the case may be (hereinafter in this section referred to as "the operator"), shall, unless it is otherwise agreed upon between the parties interested or in case of sudden emergency, give to the State Government or local authority or to such duly authorized person, or to the licensee, as the case may be (hereinafter in this section referred to as "the owner"), not less than forty-eight hours' notice in writing before commencing to dig or sink the trench, and the owner shall have the right to be present during the execution of the work, which shall be executed to the reasonable satisfaction of the owner.

(2) Where the operator finds it necessary to undermine, but not to alter, the position of any pipe, electric supply-line or work, he shall support it in position during the execution of the work, and before completion shall provide a suitable and proper foundation for it where so undermined.

(3) Where the operator (being the licensee) lays any electric supply-line across, or so as to be liable to touch, any pipes, lines or service-pipes, or service-lines belonging, to any duly authorized person or to any person supplying, transmitting or using energy under this Act, he shall not, except with the written consent of such person and in accordance with section 34, sub-section (1) lay his electric supply-lines so as to come into contact with any such pipes, lines or service-pipes or service-lines.

(4) Where the operator makes default in complying with any other provisions of this section, he shall make full compensation for any loss or damage incurred by reason thereof.

(5) Where any difference or dispute arises under this section, the matter shall be determined by arbitration.

(6) Where the licensee is a local authority, the references in this section to the local authority and to sewers, drains, water-courses or works under its control, shall not apply.

16. Streets, railways, tramways, sewers, drains or tunnels broken up to be reinstated without delay .-(1) Where any person, in exercise of any of the powers conferred by or under this Act, opens or breaks up the soil or pavement of any street, railway or tramway or any sewer, drain or tunnel, he shall--

(a) immediately cause the part opened or broken up to be fenced and guarded;

(b) before sunset cause a light or lights, sufficient for the warning of passengers, to be set up and maintained until sunrise against or near the part opened or broken up;

(c) with all reasonable speed fill in the ground and reinstate and make good the soil or pavement, or the sewer, drain or tunnel, opened or broken up, and carry away the rubbish occasioned by such openings or breaking up; and

(d) after reinstating and making good the soil or pavement, or the sewer, drain or tunnel, broken or opened up, keep the same in good repair for three months and for any further period, not exceeding nine months, during which subsidence continues.

(2) Where any person fails to comply with any of the provisions of sub-section (1), the person having the control on management of the street, railway, tramway, sewer, drain or

tunnel in respect of which the default has occurred, may cause to be executed the work which the defaulter has delayed or omitted to execute, and may recover from him the expenses incurred in such execution.

(3) Where any difference or dispute arises as to the amount of the expenses incurred under sub-section

(2), the matter shall be determined by arbitration.

17. Notice to telegraph authority.- (1) A license shall, before laying down or placing, within ten yards of any part of any telegraph-line, any electric supply-line or other works 1[not being either service-lines], or electric supply-lines for the repair, renewal or amendment of existing works of which the character or position is not to be altered), give not less than ten day's notice in writing to the telegraph-authority, specifying-

(a) the course of the works or alterations proposed,

(b) the manner in which the works are to be utilized,

(c) the amount and nature of the energy to be transmitted, and

(d) the extent to, and manner in, which (if at all) earth returns are to be used,

and the license shall conform with such reasonable requirements, either general or special, as may be laid down by the telegraph-authority within that period for preventing any telegraph-line from being injuriously affected by such works or alterations:

Provided that, in case of emergency (which shall be stated by the licensee in writing to the telegraph-authority) arising from defects in any of the electric supply-lines or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity of the proposed new works or alterations has arisen.

(2) Where the works to be executed of the laying 2[or placing] of any 3[***] serviced-lines 4[***] the licensee shall, not less than forty-eight hours before commencing the work, serve upon the telegraph-authority a notice in writing of his intention to execute such works.

18. Overhead lines.- (1) Save as provided in section 13, sub-section (3), nothing in this Part shall be deemed to authorize or empower a licensee to place any 5[overhead line] along or across any street, railway, tramway, canal or waterway unless and until the State Government has communicated to him a general approval in writing of the methods of construction which he proposes to adopt:

Provided that the communication of such approval shall in no way relieve the licensee of his obligations with respect to any other consent required by or under this Act.

(2) Where any 5[overhead line] has been placed or maintained by a licensee in breach of the provisions of the sub-section (1), the State Government may require the licensee forthwith to remove the same, or may cause the same to be removed, and recover from the licensee the expenses incurred in such removal.

6[(3) Where any tree standing or laying near an 5[overhead line] or where any structure or other object which has been placed or has fallen near an 5[overhead line] subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere

1. Subs. by Act 1 of 1922, sec. 4, for "not being service-line immediately attached or intended to be immediately attached to a distributing main".

2. Ins. by Act 1 of 1922, sec. 4.

3. The word "underground" omitted by the Act 1 of 1922, sec. 4.

4. The words "immediately attached or intended to be immediately attached to a distributing main" omitted by the Act 1 of 1922, sec. 4.

5. Subs. by Act. 32 of 1959, sec. 2, for "aerial line".

6. Subs. by Act 1 of 1922, sec. 5, for the original sub-section.

with, the conveyance or transmission of energy or the accessibility of any works a Magistrate of the first class or, in a presidency-town 1[***], [the Commissioner of Police, may, on the application of the licensee, cause the tree, structure or the object to be removed or otherwise dealt with as he thinks fit.]

(4) When disposing of an application under sub-section (3), the Magistrate or Commissioner of Police, as the case may be, shall, in the case of any tree in existence before the placing of the 2[overhead line], award to the person interested in the tree such compensation as he thinks reasonable, and such person may recover the same from the licensee.

3[*Explanation.*- For the purposes of this section, the expression "tree" shall be deemed to include any shrub, hedge, jungle-growth or other plant.]

19. Compensation for damage.- (1) A licensee shall, in exercise of any of the powers conferred by or under this Act, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(2) Save in the case provided for in section 12, sub-section (3), where any difference or dispute arises as to the amount or the application of such compensation the matter shall be determined by arbitration.

Supply

4[**19A. Point where supply is delivered.**- For the purpose of this Act, the point at which the supply of energy by a licensee to a consumer shall be deemed to commence shall be determined in such manner as may be prescribed.]

20. Power for licensee to enter premises and to remove fittings or other apparatus of licensee.- (1) A licensee or any person duly authorized by the licensee may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which energy is or has been supplied by him, 5[of any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him] for the purpose of--

(a) [inspecting, testing, repairing or altering] the electric supply-lines, meters, fittings, works and apparatus for the supply for the supply of energy belonging to the licensee; or

(b) ascertaining the amount of the energy supplied or the electrical quantity contained in the supply; or

(c) removing where the supply of energy is no longer required, or where the licensee is authorized to take away and cut off such supply, any electric supply-lines, 7[meters,] fittings, works or apparatus belonging to the licensee.

1. The words "or Rangoon" omitted by the A.O. 1937.

2. Subs. by Act. 32 of 1959, sec. 2, for "aerial line".

3. Added by Act 1 of 1922, sec. 5.

4. Ins. by Act 1 of 1922, sec. 6.

5. Ins. by Act. 32 of 1959, sec. 13.

6. Subs. by Act. 32 of 1959, sec. 13, for "inspecting and testing".

7. Ins. by Act 1 of 1922, sec. 7.

(2) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by 1[a Magistrate of the first class or in a presidency-town, by a Presidency Magistrate and after giving not less than twenty-four hour' notice in writing to the occupier-

(a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;

(b) enter any premises to which energy is to be supplied by him, for the purpose of examining and testing the electric wires fittings, works and apparatus for the use of energy, belonging to the consumer].

2 (3) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises 3[or land] in pursuance of the provisions of sub-section (1) or, sub-section (2), when such licensee or person has so entered, refuses to allow him to perform any act which he is authorized by those sub-sections to perform, or falls to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.]

21. Restriction on licensees controlling or interfering with use of energy. -(1) A licensee shall not be entitled to prescribe any special form of appliance lor utilising energy supplied by him, or, save as provided 4[in any conditions made under sub-section (2) or] by section 23, sub-section (2), or by section 26, sub-section (7), in any way to control or interfere with the use of such energy:

Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to 5[interfere with-

(a) The safety or efficient working of a licensee's electric supply-lines or other works; or

(b) The supply of energy by the licensee to any other person]

6[(2) 7[* * *] A licensee may, with the previous sanction of the State Government, given after consulting 3[the State Electricity Board and also] the local authority, where the licensee is not the local authority, make conditions not inconsistent with this Act or with his license or with any rules made under this Act, to regulate his relations with persons who are or intend to become consumers, and may, with the like sanction given after the like consultation, add to or alter or amend any such conditions; and any conditions made by a licensee without such sanction shall be null and void:

Provided that any such conditions made before the 23rd day of January, 1922 shall, if sanctioned by the State Government on application made by the licensee before such date as the State Government may, by general or special order, fix in this behalf, be deemed to have been made in accordance with the provisions of this sub-section.

1. Subs. by Act. 32 of 1959, sec. 13, for certain former words.

2. Ins. by Act 1 of 1922, sec. 7.

3. Ins. by Act. 32 of 1959, sec. 13.

4. Ins. by Act. 32 of 1959, sec. 14.

5. Subs. by Act. 32 of 1959, sec. 14, for "interference with the supply by the licensee of energy to any other person".

6. Ins. by Act 1 of 1922, sec. 8.

7. The words, bracket and figure "Subject to the provisions of sub-section (1)" omitted by Act. 32 of 1959, sec. 14.

(3) The State Government may, after the like consultation, 1[add any new condition or cancel or amend] any condition or part of a condition previously sanctioned under sub-section (2) after giving to the licensee not less than one month's notice in writing of its intention so to do.]

2[(4)] Where any difference or dispute arises as to wheather a licensee has prescribed any appliance or controlled or interfered with the use of energy in contravention of sub-section (1), the matter shall be either referred to an 3[Electrical Inspector] and decided by him or, if the licensee or the consumer so desires, determined by arbitration.

COMMENTS

Conditions regulating the relations between the parties (licensee and consumer) are not amended or altered merely by the change in the rates/charges of supply when the consumer has expressly accepted, as a condition, that whatever rate is levied shall be payable by him. Hence, prior sanction of the State Government is not necessary for change in rate; *Gulab Rai v. MCD*, AIR 1990 Del 249.

22. Obligation on licensee to supply energy.- Where energy is supplied by a licensee, every person within the area of supply shall, expect in so far as is otherwise provided by the terms and conditions of the license, be entitled, on application, to a supply on the same terms as those on which any other person in the same area is entitled in similar circumstances to a corresponding supply:

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of energy for any premises having a separate supply unless he has agreed with the licensee to pay him such minimum annual sum as will give him a reasonable return on the capital expenditure, and will cover standing charges incurred by him in order to meet the possible maximum demand for those premises, the sum payable to be determined in case of difference or dispute by arbitration.

COMMENTS

The Electricity Board is responsible to supply electricity to every person/individual applying in that behalf, residing within the area of supply without any discretion or bias or opinion: *Ram Bihari Movie Pvt. Ltd. v. Orissa State Electricity Board*, AIR 1991 Ori 12.

4[**22A. Powers of State Government to give direction to a licensee in regard to the supply of energy to certain class of consumers.-** (1) The State Government may, if in its opinion necessary in the public interest so to do, direct any licensee to supply, in preference to any other consumer, energy required by any establishment which being in the opinion of the State Government an establishment used or intende to be used for maintaining supplies and services essential to the community, is notified by that Government in the Official Gazette in this behalf.

(2) Where any direction is issued under sub-section (1) requiring a licensee to supply energy to any established and any difference or dispute arises as to the price or other terms and conditions relating to the supply of energy, the licensee shall not by reason only of such difference or dispute be entitled to refuse to supply energy but such difference or dispute shall be determined by arbitration.

1. Subs. by Act. 32 of 1959, sec. 14, for "cancel".

2. Original sub-section (2) re-numbered as sub-section (4) by Act 1 of 1922, sec. 8.

3. Subs. by Act. 32 of 1959, sec. 2, for "Electrical Inspector".

4. Ins. by Act. 32 of 1959, sec. 15.

(3) Where any agreement by a licensee, whether made before or after the commencement of the Indian Electricity (Amendment) Act, 1959, for the supply of energy with any establishment referred to in sub-section (1) expires, the licensee shall continue to supply energy to such establishment on the same terms and conditions as are specified in the agreement until he receives a notice in writing from the establishment requiring him to discontinue the supply.

(4) Notwithstanding anything contained in this Act, or in the Electricity (Supply) Act, 1948 (54 of 1948), or in his license or in any agreement entered into by him for the supply of energy, a licensee shall be bound to comply with any direction given to him under sub-section (1) and any action taken by him in pursuance of any such direction shall not be deemed to be a contravention of section 23.

22B. Power to control the distribution and consumption of energy.-(1) If the State Government is of opinion that it is necessary or expedient so to do, on maintaining the supply and securing the equitable distribution of energy, it may order provide for regulating the supply, distribution, consumption or use thereof.

(2) Without prejudice to the generality of the powers conferred by the sub-section (1) and order made thereunder may direct the licensee not to comply, except with the permission of the State Government, with-

(i) the provisions of any contract, agreement or requisition whether made before or after the commencement of the Indian Electricity (Amendment) Act, 1959, for the supply (other than the resumption of a supply) or an increase in the supply of energy to any person, or

(ii) any requisition for the resumption of supply of energy to a customer after a period of six months, from the date of its discontinuance, or

(iii) any requisition for the resumption of supply of energy made within six months of its discontinuance, where the requisitioning consumer was not himself the consumer of the supply at the time of its discontinuance.]

COMMENTS

A consumer of high tension industrial power, on account of interrupted supply of electrical energy due to power cuts, is not relieved of the liability/obligation to pay minimum monthly charges and thus cannot restrict such liability to the extent of electrical energy actually consumed by him, especially when such consumer had agreed for power cuts; *Gwalior Steels Pvt Ltd. v. Madhya Pradesh Electricity Board*, AIR 1993 MP 118.

23. Charges for energy to be made without undue preference.-(1) A licensee shall not, in making any agreement for the supply of energy, show undue preference to any person 1[***].

(2) No consumer shall, except with the consent in writing of the licensee, use energy supplied to him under one method of charging in a manner for which a higher method of charging is in force.

2[(3) In the absence of an agreement to the contrary, a licensee may charge for energy supplied by him to any consumer-

1. Certain words omitted by Act 32 of 1959, sec. 16.

2. Added by Act 1 of 1922, sec. 9.

(a) by the actual amount of energy so supplied, or

(b) by the electrical quantity contained in the supply, or

(c) by such other method as may be approved by the State Government.

(4) Any charges, made by a licensee under clause (c) of sub-section (3) may be based upon, and vary in accordance with, any one or more of the following considerations, namely-

(a) the consumer's load factor, or

(b) the power factor of his load, or

(c) his total consumption of energy during any started period, or

(d) the hours at which the supply of energy is required.]

COMMENTS

(i) Stipulation to pay minimum guaranteed charges, irrespective of the units of energy consumed or not consumed at all till the determination of the contract, is responsible and valid, as the supply of electricity to the consumer involves incurring of fixed overhead expenses by way of installation by the Electricity Board; *Bihar State Electricity Board, Patna v. Green Rubber Industries*, AIR 1990 SC 699.

(ii) Mere disconnection supply of electricity would not amount to termination of the contract except when no application for restoration within one week or seven days of such disconnection is moved, it would be deemed to be notice of termination and the contract would be terminated either at the end of this period of notice or the tenure of the agreement, whichever was longer; *General Manager-cum-Chief Engineer, Bihar State Electricity Board v. Rajeshwar Singh*, AIR 1990, sec. 706.

24. Discontinuance of supply to consumer neglecting to pay charge.- 1[(1)] Where any person neglects to pay any charge for energy or any 2[sum, other than a charge for energy,] due from him to a licensee in respect of the supply of energy to him, the licensee may, after giving not less than seven clear days' notice in writing to such person and without prejudice to his right to recover such charge or other sum by suit, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works, being the property of the licensee, through which energy may be supplied, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer.

3[(2)] 4[***] Where any difference or dispute 5[which by or under this Act is required to be determined by an Electrical Inspector, has been referred to the Inspector] before notice as aforesaid has been given by the licensee, the licensee shall not exercise the powers conferred by this section until the Inspector has given his decision:

6[Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the 7[Electrical Inspector] of the amount of the licensee's charges or other sums in dispute or

1. First paragraph of section 24 numbered as sub-section (1) of that section by Act 1 of 1922, sec. 10.

2. Subs. by Act 1 of 1922, sec. 10, for "other sum".

3. Proviso numbered as sub-section (2) by Act 1 of 1922, sec. 10.
4. The words "Provided that" omitted by Act 1 of 1922, sec. 10.
5. Subs. by Act. 32 of 1959, sec. 17, for "has been referred under this Act to an Electric Inspector".
6. Added by Act 1 of 1922, sec. 10.
7. Subs. by Act. 32 of 1959, sec. 2, for "Electric Inspector".

for the deposit of the licensee's further charges for energy as they accrue, and the consumer has failed to comply with such request.]

25. Exemption of electric supply-lines or other apparatus from attachment certain cases.-Where any electric supply-lines, meters, fittings, works or apparatus belonging to a licensee are placed in or upon any premises 1[or land], not being in the possession of the licensee, 2[***] such electric supply-lines, meters, fittings, works and apparatus shall not be liable to be taken in execution under any process of any Civil Court or in any proceedings in insolvency against the person in whose possession the same may be.

26. Meters.-(1) In the absence of an agreement to the contrary, the amount of energy supplied to a consumer or the electrical quantity contained in the supply shall be ascertained by means of a correct meter, and the licensee shall, if required by the consumer, cause the consumer to be supplied with such a meter:

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects purchase a meter.

(2) Where the consumer so enters into an agreement for the hire of a meter, the licensee shall keep the meter correct, and, in default of his doing so, the consumer shall, for so long as the default continues, cease to be liable to pay for the hire of the meter.

(3) Where the meter is the property of the consumer, he shall keep the meter correct and, in default of his doing so, the licensee may, after giving him seven days' notice, for so long as the default continues, cease to supply energy through the meter.

(4) The licensee or any person duly authorized by the licensee shall, at any reasonable time and on informing the consumer of his intention, have access to and be at liberty to inspect and test, and for that purpose, if he thinks fit, take off and remove, any meter referred to in sub-section (1); and, except where the meter is so hired as aforesaid, all reasonable expenses of, and incidental to, such inspecting, testing, taking off and removing shall, if meter is found to be otherwise than correct, be recovered from the consumer; and, where any difference or dispute arises as to the amount of such reasonable expenses, the matter shall be referred to an 3[Electrical Inspector], and the decision of such Inspector shall be final:

Provided that the licensee shall not be at liberty to take off or remove any such meter if any difference or dispute of the nature described in sub-section (6) has arisen until the matter has been determined as therein provided.

(5) A consumer shall not connect any meter referred to in sub-section (1) with any electric supply-line through which energy is supplied by a licensee, or disconnect the same for any such electric supply-line 4[but he may by giving not less than forty-eight hours' notice in writing to the licensee requires the licensee to connect or disconnect such meter and on receipt of any such requisition the licensee shall comply with it within the period of the notice.]

1. Ins. by Act. 32 of 1959, sec. 18.

2. The words "for the purpose of supplying energy" omitted by Act. 32 of 1959, sec. 18.

3. Subs. by Act. 32 of 1959, sec. 2, for "Electric Inspector".

4. Subs. by Act. 32 of 1959, sec. 19, for certain words.

1[(6) Where any difference or dispute arises as to whether any meter referred to in sub-section (1) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceed in six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that before either a licensee or a consumer applies to the Electrical Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.]

(7) In addition to any meter which may be placed upon the premises of a consumer in pursuance of the provisions of sub-section (1), the licensee may place upon such premises such meter, maximum demand indicator or other apparatus as he may think fit for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer, or the number of hours during which the supply is given, or the rate per unit of time at which energy is supplied to the consumer, or any other quantity or time connected with the supply:

Provided that the meter, indicator or apparatus shall not, in the absence of an agreement to the contrary be placed otherwise than between the distributing mains of the licensee and any meter referred to in sub-section (1):

Provided also that, where the charges for the supply of energy depend wholly or partly upon the reading or indication of any such meter, indicator or apparatus as aforesaid, the licensee shall, in the absence of an agreement to the contrary, keep the meter, indicator or apparatus correct; and the provisions of sub-sections (4), (5) and (6) shall in that case apply as though the meter, indicator or apparatus were a meter referred to in sub-section (1).

Explanation-A meter shall be deemed to be "correct" if it registers the amount of energy supplied, or the electrical quantity contained in the supply, within the prescribed limits of error, and a maximum demand indicator or other apparatus referred to in sub-section (7) shall be deemed to be "correct" if it complies with such conditions as may be prescribed in the case of any such indicator or other apparatus.

27. Supply of energy outside area of supply.-Notwithstanding anything in this Act, the State Government may, by order in writing, and subject to such conditions and restrictions, if any, as it thinks fit to impose, authorise any licensee to supply energy to any person outside the area of supply, and to lay down or place electric supply-lines for that purpose:

Provided, first, that no such authority shall be conferred on the licensee within the area of supply of another licensee without that licensee's consent, unless the State Government considers that his consent has been unreasonably withheld:

Provided, secondly, that such authority shall not be conferred unless the person to whom the supply is to be given has entered into a specific agreement with the licensee for the taking of such supply:

Provided, thirdly, that a licensee on whom such authority has been conferred shall not be deemed to be empowered outside the area of supply to open or break up any street, or any

1. Subs. by Act. 32 of 1959, sec. 19, for the former sub-section.

sewer, drain or tunnel in or under any street, railway or tramway; or to interfere with any telegraph-line, without the written consent of the local authority or person by whom such street, sewer, drain or tunnel is repairable, or of the telegraph-authority, as the case may be, 1[unless the State Government, after such inquiry as it thinks fit, considers that such consent has, been unreasonably withheld]:

Provided, fourthly; that, save as aforesaid, the provisions of this Act shall apply in the case of any supply authorised under this section as if the said supply were made within the area of supply.

2[PART IIA

TRANSMISSION OF ENERGY

27 A. Central Transmission Utility.-(1) The Central Government shall, by notification in the Official Gazette, specify any Government company as the Central Transmission Utility.

(2) The Functions of The Central Transmission Utility shall be to-

(a) undertake transmission of energy through inter-State transmission system;

(b) discharge all functions of planning and co-ordination relating to Inter-State transmission system with-

(i) State Transmission Utilities;

(ii) Central Government;

(iii) State Governments;

(iv) generating companies;

(v) Regional Electricity Boards;

(vi) Authority;

(vii) licensees;

(viii) transmission licensees;

(ix) any other person notified by the Central Government in this behalf.

(3) The Central Transmission utility shall exercise supervision and control over the Inter-State transmission system.

27B. State Transmission Utility.-(1) The State Government shall, by notification in the Official Gazette, specify the State Electricity Board or any Government company as the State Transmission Utility.

(2) The functions of the State Transmission Utility shall be to-

(a) undertake transmission of energy through intra-State transmission system;

(b) discharge all functions of planning and co-ordination relating to intra-State transmission system with-

(i) Central Transmission Utility;

(ii) State Governments;

(iii) generating companies;

(iv) Regional Electricity Boards;

(v) Authority;

1. Added by Act I of 1922, sec. 12.

2. Ins. by Act 22 of 1998, sec. 3 (w.e.f.31-12-1998).

(vi) licensees;

(vii) transmission licensees;

(viii) any other person notified by the State Government in this behalf.

(3) The State Transmission Utility shall exercise supervision and control over the Intra-State transmission system.

(4) The State Transmission Utility shall comply with and ensure compliance by others in that State of the directions which the Central Transmission Utility may give from time to time in connection with the integrated grid operations and operation of the power system or otherwise in regard to matters which affect the operation of the Inter -State transmission system.

27C. Grant of transmission license by the Central Government.-(1) Until the Central Commission is established, the Central Government and thereafter the Central Commission may, subject to the provisions of sub-section (4), grant a transmission license to any person.

(2) A transmission license granted under sub-section (1) may authorise the transmission licensee to construct, maintain and operate any inter-State transmission system under the direction, control and supervision of the Central Transmission Utility.

(3) Every application under sub-section (1) shall be-

(a) subject to such terms and conditions;

(b) in such form; and

(c) accompanied by such fees,

as may be notified by the Central Government or by the Central Commission, as the case may be, in this behalf.

(4) No application shall be entertained under sub-section (1) unless the applicant has obtained the approval of the Central Transmission Utility in such manner as may be notified by the Central Government or by the Central Commission, as the case may be, in this behalf.

(5) Until the Central Commission is established, the Central Government and thereafter the Central Commission in the case of inter-State transmission system may, if it considers necessary in public interest, by order subject to such conditions, if any, as may be specified in that order, grant exemption to any person

obtaining a transmission license under this section.

27D. Grant of transmission license by the State Government.-(1) Until the State Commission is established, the State Government and thereafter the State Commission may, subject to the provisions of sub-section (4), grant a transmission license to any person.

(2) A transmission license granted under sub-section (1) may authorise the transmission licensee to construct, maintain and operate any intra-State transmission system under the direction, control and supervision of the State Transmission Utility.

(3) Every application under sub-section (1) shall be-

(a) subject to such terms and conditions;

(b) in such form; and

(c) accompanied by such fees,

as may be notified by the State Government or by the State Commission, as the case may be, in this behalf

(4) No application shall be entertained under sub-section (1) unless the applicant has obtained the approval of the State Transmission Utility in such manner as may be notified by the State Government or by the State Commission, as the case may be, in this behalf.

(5) Until the State Commission is established, the State Government and thereafter State Commission in the case of intra-State transmission system may, if it considers necessary in public interest, by order subject to such conditions, if any, as may be specified in that order, grant exemption to any person from obtaining a transmission license under this section.

27E. Modified application of certain sections to transmission license and transmission licensee.-- The provisions of section 12 to 19 (both inclusive), section 25 and clauses XIV to XVII (both inclusive) of the Schedule shall, as far as may be, apply to a transmission licensee subject to the modification that references to "license" and "licensee" shall be construed as references to "transmission license" and "transmission licensee", respectively.

27F. Laying of certain notification and order, etc.- (1) Every notification issued and every order made by the Central Government under this Part shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in notification or order or both Houses agree that the notification or order should not be made, the notification or order shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or order.

(2) Every notification issued by the State Government and every order made by the State Government under section 27D shall be laid, as soon as it is made or issued, before the State Legislature.]

PART III - SUPPLY, TRANSMISSION AND USE OF ENERGY BY NON-LICENSEES

28. Sanction required by non-licensees in certain cases.- 1[(1) No person, other than a licensee, shall engage in the business of supplying energy to the public except with the previous sanction of the State

Government and in accordance with such conditions as the State Government may fix in this behalf, and any agreement to the contrary shall be void.

(1A) The State Government shall not give any sanction under sub-section (1)--

(a) except after consulting the State Electricity Board; and

(b) except with the consent-

(i) in any case where energy is to be supplied in any area for which a local authority is constituted, of that local authority;

(ii) in any case where energy is to be supplied in any area forming part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defense purposes of the Central Government;

(iii) in any area falling within the area of supply of a licensee, of that licensee.

Provided that except in a case falling under sub-clause (ii), no such consent shall be necessary if the State Government is satisfied that such consent has been unreasonably withheld.]

(2) Where any difference or dispute arises as to whether any person is or is not engaging or about to engage, in the business of supplying energy 2[to the public] within the meaning

1. Subs by Act. 32 of 1959, sec. 20, for the former sub-section (1).

2. Ins. by Act 32 of 1959, sec. 20.

of sub-section (1), the matter shall be referred to the State Government, and the decision of the State Government thereon shall be final.

29. Power for non-licensees to break up streets.-(1) The local authority may, by order in writing, confer and impose upon any person, who has obtained the sanction of the State Government under section 28 to engage in the business of supplying energy, 1[to the public], all or any of the powers and liabilities of a licensee under sections 12 to 19, both inclusive, and the provisions of the said sections shall thereupon apply as if such person were a licensee under Part II.

(2) A local authority, not being a licensee, shall, for the purpose of lighting any street, have the powers and be subject to the liabilities respectively conferred and imposed by sections 12 to 19 (both inclusive), so far as applicable, as if it were a licensee under Part II.

(3) In cases other than those for which provision is made by sub-section (1), the person responsible for the repair of any street may, by order in writing, confer and impose upon any person who proposes to transmit energy in such street all or any of the powers and liabilities of a licensee under sections 12 to 19 (both inclusive), in so far as the same relate to-

(a) opening or breaking up of the soil or pavement of such street, or

(b) laying down or placing electric supply-line, in, under, along or across such street, or repairing, altering or removing such electric supply-lines, and thereupon the provisions of the said sections shall, so far as aforesaid, apply to such person as if he were a licensee under Part II.

(4) If no order is made within fourteen days after the receipt of an application for the same under sub-section (1) or sub-section (3), the order so applied for shall be deemed to have been refused, and every

order, and every refusal to make an order, under sub-section (1) or sub-section (3), shall be subject to revision by the State Government.

2[29A. Application of section 18 to over-head lines maintained by railways.-The provisions of sub-sections (3) and (4) of section 18 and of the *Explanation* thereto shall apply in the case of any 3[overhead line] placed by any railway administration as defined 4[in clause (32) of section 2 of the Railways Act, 1989 (24 of 1989),] as if references therein to the licensee were references to the railway administration.]

30. Control of transmission and use of energy .-(1) 5[Save as otherwise exempted under this Act, no person other than Central Transmission Utility, State Transmission Utility, a transmission licensee, a licensee or a person to whom sanction is granted under section 28, duly authorised under the terms of his license or sanction, as the case may be, shall transmit or use energy at a rate exceeding two hundred and fifty watts and one hundred volts--]

(a) in any street, or

(b) in any place,--

(i) in which one hundred or more persons are likely ordinarily to be assembled, or

1. Ins. by Act 32 of 1959, sec.21.

2. Ins. by Act 40 of 1923, sec. 2.

3. Subs. by Act 32 of 1959, sec. 2, for ."aerial line".

4. Subs. by Act 22 of 1998, sec. 4, for "in section 3 of the Indian Railways Act, 1890 (9 of 1890)" (w.e.f.31-12-1998).

5. Subs. by Act 32 of 1959, sec 22, for certain words and again subs. by Act 22 of 1998, sec. 5, for certain words (we.f.31-12-1998).

(ii) which is a factory within the meaning of the Factories Act, 1948 (63 of 1948) or a mine within the meaning of the Mines Act, 1952 (35 of 1952), or

(ii) to which the State Government, by general or special order, declares the provisions of this sub-section to apply, without giving, before the commencement of transmission or use of energy, not less than seven days' notice in writing of his intention to the Electrical Inspector and to the District Magistrate, or in a presidency-town to the Commissioner of Police, containing particulars of the electrical installation and plant, if any, the nature and the purpose of supply, and complying with such of the provisions of Part IV, and of the rules made thereunder, as many be applicable:]

Provided that nothing in this section shall apply to energy used for the public carriage of passengers, animals or goods, on, or for the lighting or ventilation of the rolling stock of, any railway or tramway subject to the provisions of 1[the Railways Act, 1989 (24 of 1989)]:

Provided, also, that the State Government may, by general or special order and subject to such conditions and restrictions as may be specified therein, exempt from the application of this section or of any such provision or rule as aforesaid any person or class of persons using energy on premises upon or in connection with which it is generated, or using energy supplied under Part II in any place specified in clause (b).

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are likely ordinarily to be assembled, the matter shall be referred to the State Government, and the decision of the State Government thereon shall be final.

(3) The provisions of this section shall be binding on the Government.

PART IV - GENERAL

Protective Clauses

31. Protection of railways, aerodromes, and canals, docks, wharfs and piers.- No person shall, in the generation, transmission, supply or use of energy, in any way injure any railway, 2[aerodrome,] tramway, canal or water-way or any dock, wharf or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, 2[airway] tramway, canal or water-way.

32. Protection of telegraphic, telephonic and electric signaling lines.- (1) Every person generating, transmitting supplying or using energy (hereinafter in this section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric supply-lines and other works and in working his system, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephone or electric-signaling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator and the telegraph-authority as to whether the operator has constructed, laid down or place his electric supply-line or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line or current is or is not injuriously affected thereby, the

1. Subs. by Act 22 of 10\998, sec. 5, for "the Indian Railways Act, 1890 (9 of 1890)" (w.e.f. 31-12-1998).

2. Ins. by Act 32 of 1959, sec.23.

matter shall be referred to 1[the Central Government]; and 2[the Central Government], unless 3[it]is of opinion that the wire or line has been placed in unreasonable proximity to the electric supply-lines or works of the operator after the construction of such lines or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric supply-line so long as the course of the electric supply-line and the amount and nature of the energy transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and where any difference or dispute arises as to the amount of such compensation, the matter shall he determined by arbitration.

Explanation-For the purposes of this section, a telegraph-line shall he deemed to be injuriously affected if telegraphic, telephonic or electric-signaling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an electric supply-line or work or by any use made thereof.

33. Notice of accidents and inquiries.-4[(1) If any accident occurs in connection with the generation, transmission, supply or use of energy in or in connection with, any part of the electric supply-lines or other works of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector and to such other authorities as the appropriate Government may by general or special order, direct.]

(2) 5[The appropriate Government] may, if it thinks fit, require any 6[Electrical Inspector], or any other competent person appointed by it in this behalf, to inquire and report--

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, supply or use of energy, or

(b) as to the manner in, any extent to, which the provisions in this Act or of any license or rules thereunder, so far as those provisions affect the safety in any person, have been complied with.

7[(3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector or such other person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code (45 of 1860).]

1. Ins. by Act 32 of 1959, sec.23.

2. Subs. by A.O. 1939, for "the Local Government".

3. Subs. by Act 38 of 1920, sec. 2, Sch. I, Pt. I for "he".

4. Subs. by Act 32 of 1959, sec.24, for the former sub-section.

5. Subs. by Act 32 of 1959, sec.24, for "The State Government".

6. Subs. by Act 32 of 1959, sec.2, for "Electric Inspector".

7. Subs. by Act 32 of 1959, sec.24.

34. Prohibition of connection with earth and power for Government to interfere in certain cases of default.-(1) No person shall, in the generation, transmission, supply or use of energy, permit any part of his electric supply-lines to be connected with earth except so far as may be prescribed in this behalf or may be specially sanctioned by the 1[appropriate Government].

(2) If at any time it is established to the satisfaction of the 1[appropriate Government]--

(a) that any part of an electric supply-line is connected with earth contrary to the provisions of sub-section (1), or

(b) that any electric supply-lines or other works for the generation, transmission, supply or use of energy are attended with danger to the public safety or to human life or injuriously affect any telegraph-line, or

(c) that any electric supply-lines or other works are defective so as not to be in accordance with the provisions of this Act or of any rule thereunder, the 1[appropriate Government] may, by order in writing, specify the matter complained and require the owner or user of such electric supply-lines or other works to remedy it in such manner as shall be specified in the order, and may also in like manner forbid 2[the use of, and the supply of energy to, any electric supply-line] or works until the order is complied with or for such time as specified in the order.

Administration and Rules

35. Advisory Board.- 3[(1) The Central Government may, for the whole or any part of the territories to which this Act extends, and each State Government may, for the whole or any part of the State, by

notification in the Official Gazette, constitute an Advisory Board.]

(2) Every such Board shall consist of a chairman and not less than two other members. 4[***]

5[(3)] The Central Government or the State Government, as the case may be, may 6[by general or special order published in the Official Gazette],--

7[(a) determine the number of members of which any such Board shall be constituted and the manner in which such members shall be appointed,]

7(b) define the duties and regulate the procedure of any such Board.

7[(c) determine the tenure of office of the members of any such Board, and

7[(d)] give directions as to the payment of fees to, and the traveling expenses incurred by, any member of any such Board in the performance of his duty.

8[(4) Every order made by the State Government under sub-section (3) shall be laid, as soon as may be after it is made, before the State Legislature.

(5) Every order made by the Central Government under sub-section (3) shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more

1. Subs. by Act 32 of 1959, sec.25, for "The State Government".

2. Subs. by Act 32 of 1959, sec.25, for "the use of electric supply-line".

3. Subs. by Act 3 of 1951, sec. 3,Sch. I, for former sub-section.

4. Sub-section (3) omitted by Act I of 1922, sec. 16.

5. Sub-section (4) renumbered as sub-section (3) by Act I of 1922, sec. 16.

6. Subs. by Act 20 of 1983, sec. 2 and Sch., for certain words (w.e.f. 15.3.1984).

7. Clause (a) ins. and the original clauses (a), (b) and (c) re-lettered as (b), (c) and (d) by Act 20 of 1983, sec. 16.

8. Ins. by Act 20 of 1963, sec. 2 and Sch., (w.e.f. 15.3.1984).

successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however,that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.]

1[36. Appointment of Electrical Inspector.-(1) The appropriate Government may, by notification in the Official Gazette, appoint duly qualified persons to be Electrical Inspectors and every Electrical Inspector so appointed shall exercise the powers and perform the functions of an Electrical Inspector under this Act within such areas or in respect of such class of works and electric installations and subject to such restrictions as the appropriate Government may direct.

(2) In the absence of express provision to the contrary in this Act, or any rule made thereunder, an appeal

shall lie from the decision of an Electrical Inspector to the appropriate Government or if the appropriate Government, by general or special order so directs, to an Advisory Board.]

2[36A. Central Electricity Board.-(1) A Board to be called the Central Electricity Board shall be constituted to exercise the powers conferred by section 37.

3[(2)] 1 The Central Electricity Board shall consist of the following members, namely: -

(a) a chairman and five other members to be nominated by the Central Government;

(b) one member to be nominated by the Governments of each of the States, not being, a Union territory, to which this Act extends;

(c) one member to be nominated by the Central Government to represent each of the Union territories of Delhi and Himachal Pradesh;

(d) one member to be nominated by the Central Government to represent the Union territories of Manipur, Tripura and the Andaman and Nicobar Islands;

(e) one member to be nominated by each of the State Electricity Boards;

(f) one member to be nominated by the Central Government to represent the Federation of Electricity Undertakings of India;

(g) one member to be nominated by the Railway Board;

(h) one member to be nominated by the Chief Inspector of Mines appointed under section 5 of the Mines Act, 1952 (35 of 1952); and

(i) one member to be nominated by the Indian Standards Institution constituted under the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952).]

(3) Any vacancy occurring in the Board 4[***] shall be filled as soon as may be by a nomination made by the authority by whom the member vacating office was nominated.

1. Subs. by Act 32 of 1959, sec.26, for the former section.

2. Ins. by Act 10 of 1937, sec. 3.

3. Subs. by Act 32 of 1959, sec.27, for former sub-section(2).

4. The words "otherwise than the expiry of the term of office of the member referred to in clause (c) of sub-section (2)" omitted by the Adaptation of Laws (No. 2) Order, 1956.

(4) The Board shall have full power to regulate by bye-laws or otherwise its own procedure and the conduct of all business to be transacted by it.

(5) The powers of the Central Electricity Board may be exercised notwithstanding any vacancy in the Board.] 1[***]

2 36B. Certain members affected by States' re-organisation to vacate offices.- [Rep. By the Indian Electricity (Amendment) Act, 1959 (32 of 1959), sec. 28.]

37. Power for Board to make rules.-(1) The 3[Central Electricity Board] may make rules, for 4[the whole

or any part of the territories to which this Act extends], to regulate the generation, transmission, supply and use of energy, and, generally, to carry out the purposes and objects of this Act.

(2) in particular and without prejudice to the generality of the foregoing power, such rules, may-

(a) prescribe the form of applications for licenses and the payments to be made in respect thereof;

(b) regulate the publication of notices;

(c) prescribe the manner in which objections with reference to any application under Part II are to be made.

(d) provide for the preparation and submission of accounts by licensees in a specified form:

(e) provide for the securing of a regular, constant and sufficient supply of energy by licensees to consumers and for the testing at various parts of the system of the regularity and sufficiency of such supply, and for the examination of the records of such tests by consumers;

(f) provide for the protection of persons and property from injury reason of contact with, or the proximity of, or by reason of the defective or dangerous condition of, any appliance or apparatus used in the generation, transmission supply or use of energy;

(g) for the proposes of electric traction regulate the employment of insulated returns, or of insulated metallic returns of low resistance, in order to prevent fusion or injurious electrolytic action of or on metallic pipes, structures or substances, and to minimise, as far as is reasonably practicable, injurious interference with the electric wires, supply-line and apparatus of parties other than the owners of the electric traction system, or with the currents therein, whether the earth is used as a return or not'

(h) provide for preventing telegraph-lines and magnetic observatories or laboratories from being injuriously affected by the generation, transmission, supply or use of energy;

1. Sub-section (6), which was ins. by the Adaptation of Laws (No.2) Order, 1956, omitted by Act 32 of 1959, sec. 27.

2. Section 36B was ins. by the Adaptation of Laws (No.2) Order, 1956

3. Subs. by Act 10 of 1937, sec.4, for "G.G. in C."

4. Subs. by Act 3 of 1951, sec.3 and Sch., for "the territories for the time being comprised within Part A States and Part C States or any such territories".

(i) prescribe the qualifications to be required of 1[Electrical Inspectors];

(j) authorise any 1[Electrical Inspectors] or other officer of a specified rank, and class to enter, inspect, and examine any place, carriage or vessel in which he has reason to believe any appliance or apparatus used in the generation, transmission, supply or use of energy to be, and to carry out tests therein, and to prescribe the facilities to be given to such Inspectors or officers for the purposes of such examinations and tests; 2[***]

(k) authorise and regulate the levy of fees for any such testing or inspection and, generally, for the services of 1[Electrical Inspectors] under this Act; 3[and

(l) provide for any matter which is to be or may be prescribed.]

(3) Any rules made in pursuance of 4[clauses (e) to (j)] (both inclusive)] of sub-section (2) shall be binding

on the Government.

5[(4)] In making any rule under this Act, the 6[Central Electricity Board] may direct that every breach thereof shall be punishable with fine which may extend to three hundred rupees, and in the case of a continuing breach, with a further daily fine which may extend to fifty rupees.

38. Further provisions respecting rules,-(1) The power to make rules under section 37 shall be subject to the condition of the rules being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clause Act, 1897 (10 of 1897), as that after which a draft of rules proposed to be made under section 37 will be taken into consideration shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

7[(3) Every rule made under section 37 shall be published in the Gazette of India and shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

Criminal Offences and Procedure

8[**39. Theft of energy.-** Whoever dishonestly abstracts, consumes or uses any energy shall be punishable with imprisonment for a term which may extend to three years, or with fine which shall not be less than one thousand rupees, or with both and if it is proved that any artificial means or means not authorised by the licensee exist for the abstraction,

1. Subs. by Act 32 of 1959, sec.2, for "Electric Inspector".

2. The word "and" omitted by Act 1 of 1922, sec. 18.

3. Ins. by Act 1 of 1922, sec. 18.

4. Subs. by Act 32 of 1959, sec.29, for "clause (f) or clause (h)".

5. Original sub-section (3) re-numbered as sub-section (4) by Act 1 of 1922, sec. 18.

6. Subs. by Act 10 of 1937, sec.4, for "G.G. in C".

7. Subs. by Act 20 of 1983, sec.2. and Sch, for the former sub-section (w.e.f. 15-3-1984).

8. Subs. by Act 31 of 1986, sec.2. for the former section 39.

consumption or use of energy by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of energy has been dishonestly caused by such consumer.

39A. Abetment.-Whoever abets an offence punishable under section 39 or section 44 shall, notwithstanding anything contained in section 116 of the Indian Penal Code (45 of 1860), be punished with punishment provided for the offence.]

40. Penalty for maliciously wasting energy or injuring works.-Whoever maliciously causes energy to

be wasted or diverted, or, with intent to cut off the supply of energy cuts or injures, or attempts to cut or injure. any electric supply-line or works, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

41. Penalty for unauthorised supply of energy by non-licensees.- Whoever, in contravention of the provisions of section 28 engages in the business of supplying energy shall be punishable with fine which may extend to three thousand rupees, and in the case of a continuing contravention, with a daily fine which may extend to three hundred rupees.

1[41A. Penalty for unauthorised transmission of energy.-Whoever, in contravention of the provisions of this Act or regulations or license conditions, engages in the business of transmission of energy shall be punishable with fine which may extend to three thousand rupees and in case of a continuing contravention. with a daily fine which may extend to three hundred rupees.]

2[42. Penalty for illegal or defective supply or for non-compliance with order.-Whoever-

(a) being a licensee or a person who has obtained the sanction of the State Government under section 28 to engage in the business of supplying energy to the public, save as permitted under section 27 or section 51 or by his license or as the case may be, by the conditions of sanction, supplies energy or lays down or places any electric supply-line or works outside the area of supply;

(b) or being a licensee or a person who has obtained the sanction of the State Government as aforesaid, in contravention of the provisions of this Act or of the rules thereunder, or in breach of the conditions of license or of the sanction, as the case may be, and without reasonable excuse, the burden of proving which shall lie on him discontinues the supply of energy or fails to supply energy, or

(c) makes default in complying with any of the provisions of an order or of any notice or requisition issued under section 5 or section 6; or

(d) makes default in complying with any directions issued to him under section 22A; or

(e) makes default in complying with any order issued to him under section 22B or sub-section (2) of section 34,

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.]

43. Penalty for illegal transmission or use of energy.-Whoever, in contravention of the provisions of section 30, transmits or uses energy without giving the notice required thereby, shall be punishable with fine which may extend to five hundred rupees, and, in case of a continuing offence, with a daily fine which may extend to fifty rupees.

1. Ins. by Act 22 of 1998, sec. 6, (w.e.f. 31-12-1998).

2. Subs. by Act 32 of 1959, sec.31, for the former section.

44. Penalty for interference with meters or licensee's works and for improper use of energy.-Whoever -

(a) connects any meter referred to in section 26, sub-section (1), or any meter, indicator or apparatus referred to in section 26, sub-section (7), with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such eclectic supply-line 1[***]; or

2(aa) unauthorisedly re-connects any meter referred to in sub-section (1) of section 26, or any meter, indicator or apparatus referred to in sub-section (7) of section 26, with any electric supply-line or other

works. being the property of the licensee, through which energy may be supplied, when the said electric supply line or other works has or have been cut or disconnected under sub-section (1) of section 24; or]

(b) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee 1[***]; or

(c) maliciously injures any meter referred to in section 26, sub-section (1), or any meter, indicator or apparatus referred to in section 26, sub-section (7), or willfully or fraudulently alters the index of any such meter, indicator or apparatus, or prevents any such meter, indicator or apparatus from duly registering; or

(d) improperly uses the energy of a licensee,

4[shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both], and, in the case of continuing offence, with a daily fine which may extend to 5[fifty] rupees; and 2[if it is proved that any artificial means exist] for making such connection as is referred to in clause (a) 2[or such re-connection as is referred to in clause (aa),] or such communication as is referred to in clause (b), or for causing such alteration or prevention as is referred to in clause (c), or for facilitating such improper use as is referred to in clause (d), 6[and that] the meter, indicator or apparatus is under the custody or control of the consumer, whether it is his property or not,

7[it shall be presumed, until the contrary is proved] 4[that such connection, reconnection, communication,] alteration, prevention or improper use, as the case may be, has been knowingly and willfully caused by such consumer.

45. Penalty for extinguishing public lamps.-Whoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to three hundred rupees, or with both.

46. Penalty for neglecting wasting energy or injuring works.-Whoever negligently causes energy to be wasted or diverted, or negligently breaks, throws down or damages any electric supply-line, post, pole or lamp or other apparatus connected with the supply of energy, shall be punishable with fine which may extend to two hundred rupees.

1. The word, "without giving to the licensee forty-eight hour' notice in writing of his intention" omitted by Act 32 of 1959, sec.32.

2. Ins. by Act 31 of 1986, sec.3.

3. The words "without licensee's consent" omitted by Act 32 of 1959, sec.32.

4. Subs. by Act 31 of 1986, sec.3, for certain words.

5. Subs. by Act 1 of 1922, sec.19, for "thirty".

6. Subs. by Act 1 of 1922, sec.19, for "shall, where".

7. Subs. by Act 1 of 1922, sec.19, for "be *prima facie* evidence".

47. Penalty for offences not otherwise provided for.-Whoever, in any case not already provided for by 1[section 39, section 39A or section 40] to46(both inclusive), makes default in complying with any of the provisions of this Act, or with any order issued under it, or, in the case of a licensee, with any of the conditions of his license, 2[or in the case of a person who has obtained the sanction of the State Government under section 28, with any of the conditions of the sanction], shall be punishable with fine which may extend to one hundred rupees, and, in the case of a continuing default, with a daily fine which may extend to twenty rupees:

Provided that, where a person has made default complying with any of the provisions of sections 13, 14, 15, 17 and 32, as the case may be, he shall not be so punishable if the court is of opinion that the case was one of emergency and that the offender complied with the said provisions as far as was reasonable in the circumstances.

48. Penalties not to affect other liabilities.- The penalties imposed by 1[section 39, section 39A or sections 40] to 47 (both inclusive) shall be in addition to, and not in derogation of, any liability in respect of the payment of compensation or, in the case of a licensee the revocation of his license, which the offender may have incurred.

49. Penalties where works belong to Government.-The provisions of 3[sections 39, 39A, 40,] 44, 45 and 46 shall, so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of energy supplied by or of works belonging to 4[the Central Government or any State Government].

5[49A. Offences by companies.-(1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation-*For the purposes of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.]

50. Institution of prosecutions.-No prosecution shall be instituted against any person for any offence against this Act or any rule, license or order thereunder, except at the instance

1. Subs. by Act 31 of 1986, sec.4, for "section 39".

2. Ins. by Act 32 of 1959, sec.33.

3. Subs. by Act 31 of 1986, sec.5, for "section 39, 40".

4. Subs. by A.O 1948, for "any Government in British India".

5. Ins. by Act 32 of 1959, sec.34.

the instance of the Government 1[or a State Electricity Board] or an 2[Electrical Inspector), or of a person aggrieved by the same.

Supplementary

3[51. Exercise in certain cases of powers of telegraph authority.-Notwithstanding anything contained in sections 12 to 16 (both inclusive) and sections 18 and 19, the Central Government in the case of inter-State transmission system and the State Government in the case of intra-State transmission system, as the case may be, may, by order in writing, for placing of electric supply-lines, appliances and apparatus for the transmission of energy or for the purpose of telephonic or telegraphic communication necessary for the proper coordination of works, confer upon any public officer, Central Transmission Utility, State Transmission Utility, licensee, transmission licensee or any other person engaged in the business of transmission or supplying energy to the public under this Act, subject to such conditions and restrictions (if any) as the Central Government or the State Government, as the case may be, may think fit to impose, and to the provisions of the Indian Telegraph Act, 1885 (3 of 1885), any of the powers which the telegraph-authority possesses under the Act, with respect to the placing of telegraph-lines and posts for the purposes of a telegraph established or maintained by the Government or to be so establishment or maintained.]

4[51A. State Government to have powers and obligations of a licensee under this Act.-Where the State Government engages in the business of supplying energy to the public, it shall have all the powers and obligations of a licensee under this Act:

Provided that nothing in sections 3 to 11 (both inclusive), section 21, sub-sections (2) and (3), sections 22 and 27 or in clauses I to V (both inclusive), clause VII and clauses IX to XII (both inclusive) of the Schedule relating to the duties and obligations of a licensee shall apply to the State Government:

Provided further that the provisions of clause VI of the Schedule shall apply to the State Government in respect of that area only where distribution mains have been laid by the State Government and the supply of energy through any of them has commenced.]

52. Arbitration.-Where any matter is, by or under this Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the license of a licensee, be determined by such person or persons as the State Government may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the 5[***] 6[Arbitration and Conciliation Act. 1996 (26 of 1996)]:

7[Provided that where the Government or a State Electricity Board is a party to a dispute, the dispute shall be referred to two arbitrators, one to be appointed by each party to the dispute.]

53. Service of notices, orders or documents.-(1) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by post or left,-

1. Ins. by Act 31 of 1986, sec.6.

2. Subs. by Act 32 of 1959, sec.2, for "Electric Inspector".

3. Subs. by Act 22 of 1998, sec.7 (w.e.f. 31-12-1998).

4. Ins. by Act 32 of 1959, sec.36.

5. The word "Indian" omitted by Act 32 of 1940, sec. 3 and Sch.II.

6. Subs. by Act 22 of 1998, sec.8 for "Arbitration Act, 1940 (10 of 1940)" (w.e.f. 31-12-1998).

7. Added by Act 32 of 1959, sec.37.

(a) where 1[the Central Government or the State Government] the addressee, at the office of 2[such officer as the Central Government or the State Government, as the case may be, may designate in this behalf];

3[***]

(b) where a local authority is the addressee, at the office of the local authority;

(c) where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in India, at the head office of the company in India;

(d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises) and may be served by delivering it or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

54. Recovery of sums recoverable under certain provisions of Act.-Every sum declared to be recoverable by 4[section 5, sub-section (4)] section 14, sub-section (2), clause (b), section 16, sub-section (2), section 18, sub-section (2) or sub-section (4), or section 26, sub-section (4) and every fee liable under this Act, may be recovered, on application to a Magistrate having jurisdiction where the person liable to pay the same is for the time being resident, by the distress and sale of any movable property belonging to such person.

55. Delegation of certain functions of State Government to Electrical Inspectors.- The State Government may, by general or special order, authorise the discharge of any of its functions under section 13 or section 18, 5[or section 34, sub-section (2)], or clause V, sub-clause (2), or clause XIII of the Schedule by a 6[Electrical inspector].

56. Protection for acts done in good faith.-7[(1)] I No suit, prosecution or other proceeding shall lie against any public officer, or any servant of a local authority, for anything done, or in good faith purporting to be done, under this Act.

8[(2) No court shall take cognizance of an offence under this Act, by a public officer except with the sanction-

(a) in the case of a person employed in connection with the affairs of the Union, of the Central Government; and

(b) in any other case, of the State Government.]

57. Amendments of the Land Acquisition Act, 1894.-(1) In section 40, sub-section (1), clause (b), and section 41, sub-section (5), of the Land Acquisition Act. 1894 (1 of 1894),

1. Subs by the A.O. 1937, for "the Government".

2. Subs by Act 1 of 1922. sec 21, for "the Secretary in the Public Works Department".

3. Clause(aa) ins. by the A.O. 1937 omitted by the A.O. 1948.

4. Subs by Act 32 of 1959, sec 38, for "section 5, clause (f), section 6, sub-section (2)".

5. Ins. by Act 1 of 1922, sec.22.

6. Subs. by Act 32 of 1959, sec.2, for "Electric Inspector".

7. Section 56 re-numbered as sub-section (1) of that section by Act 32 of 1959, sec. 39.

8. Ins. by Act 32 of 1959, sec.39.

the term "work" shall be deemed to include, electrical energy supplied, or to be supplied, by means of the work to be constructed.

(2) The State Government may, if it thinks fit, on the application of any person, not being a company, desirous of obtaining any land for the purposes of his undertaking, direct that he may acquire such land under the provisions of the Land Acquisition Act. 1894 (1 of 1894), in the same manner and on the same conditions as it might be acquired if the person were a company.

58. Repeals and savings.-(1) The Indian Electricity Act, 1903 (3 of 1903), is hereby repealed:

Provided that every application for a license made and every license granted under the said Act shall be deemed to have been made and granted under this Act.

(2) Nothing in this Act shall be deemed to affect the terms of any license which was granted, or of any agreement which was made, by or with the sanction of the Government fill the supply or use of electricity before the commencement of this Act.

THE SCHEDULE

PROVISIONS TO BE DEEMED TO BE INCORPORATED WITH, AND TO FORM PART OF, EVERY LICENSE GRANTED UNDER PART II, SO FAR AS NOT ADDED TO, VARIED OR EXCEPTED BY THE LICENSE

[See section 3, sub-section (2), clause (f)]

Security and Accounts

I. Security for executions of work of license not being local authority.-Where the licensee is not a local authority, the following provisions as to giving security shall apply, namely-

(a) The licensee shall, within the period fixed in that behalf by his license, or any longer period which the State Government may substitute therefor by order under 1[section 4A, sub-section (1)], of the Indian Electricity Act, 1910, before exercising any of the powers by the license conferred on him in relation to the execution of works, show, to the satisfaction of the State Government, that he is in a position fully and efficiently to discharge the duties, and obligations imposed upon him by the license throughout the area of supply;

(b) The licensee shall also, within the period fixed in that behalf by his license, or any longer period which the State Government may substitute therefor by order under 1[section 4A, sub-section (1)], of the Indian Electricity Act, 1910, and before exercising any of the powers conferred on him in relation to the execution of works, deposit or secure to the satisfaction of the State Government such sum (if any) as may be fixed by the license or, if not so fixed, by the State Government;

(c) The said sum deposited or secured by the licensee under the provisions of this clause shall be repaid or released to him on the completion of the works or at such earlier date or dates and by such installments, as may be approved by the State Government:

2[Provided that if the works referred to in clause IV are not executed to the satisfaction of the State Government within the period specified in that clause, that Government may by order direct that the whole or any part of the sum so deposited or secured shall be forfeited to it.]

II. Audit of accounts of licensee not being local authority.-Where the licensee is not a local authority, the following provisions as to the audit of accounts shall apply, namely-

1. Subs. by Act 32 of 1959, sec.40, for "section 4, sub-section (3), clause (b)".

2. Added by Act 32 of 1959, sec.40.

(a) The annual statement of accounts of the undertaking shall, before being rendered under section 11 of the Indian Electricity Act, 1910, be examined, and audited by such person as the State Government may appoint or approve in this behalf and the remuneration of the auditor shall be such as the State Government may direct, and his remuneration and all expenses incurred by him in or about the execution of the duties, to such an amount as the State Government shall approve, shall be paid by the licensee on demand;

(b) The licensee shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish to him and them all vouchers and information 1[(including technical data and statements of energy generated and sold)] requisite for that purpose, and afford to him and them, in facilities for the proper execution of his and their duty;

(c) The audit shall be made and conducted in such manner as the State Government may direct;

(d) Any report made by the auditor, or such portion thereof as the State Government may direct, shall be appended to the annual statement of accounts of the licensee and shall thenceforth form part thereof;

(e) Notwithstanding the foregoing provisions of the clause, the State Government may, if it thinks fit, accept the examination and audit or any auditor appointed by the licensee.

III. Separate accounts.-The licensee shall unless the State Government otherwise directs, at all times keep the accounts of the 2[undertaking relating to the generation, supply or distribution of energy] distinct from the accounts kept by him of any other undertaking or business.

Compulsory Works and Supply

IV. Execution of work after Commencement of license.- The licensee shall, within a period of three years after the commencement of the license, execute to the satisfaction of the State Government all such works as may be specified in the license in this behalf or, if not so specified, as the State Government may, by order in writing issued within six months of the date of the commencement of the license, direct.

V. Provisions as to laying down of further distributing mains.-(1) Where, after the expiration of two years and six months from the commencement of the license, a requisition is made by 3[two or more] owners or occupiers of premises in or upon any street or part of a street within the area of supply or by the State Government or a local authority charged with the public lighting thereof, requiring the licensee to provide distributing mains throughout such street or part thereof, the licensee shall comply within six months with the requisition, unless,-

(a) where it is made by such owners or occupiers as aforesaid the owners or occupiers making it do not, within fourteen clear days after the service on them by the licensee of a notice in writing in this behalf, tender to the licensee a written contract 1[In a form approved by the State Government] duly executed and with sufficient security binding themselves to take, or guaranteeing that there shall be taken, a supply of energy for not less than two years to such amount as will in the aggregate 4[assure to the licensee at the current rates charged by him, an annual revenue not exceeding fifteen per centum of the cost of the distributing mains (not including transformers and other sub-station equipment) required to comply with the requisition]; or

(b) where it is made by the State Government or a local authority, as the case may be, does not, within in the like period, tender a like contract binding itself to take a supply of energy for not less than seven years for the public lamps in such street or part thereof.

1. Ins. by Act 32 of 1959, sec.40.

2. Subs by Act 32 of 1959, sec.40, for "capital employed for the purposes of the undertaking".

3. Subs by Act 32 of 1959, sec.40, for "six or more".

4. Subs by Act 32 of 1959, sec.40, for certain words.

1[(2) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this clause, or as to the cost of the distributing mains or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Electrical Inspector and decided by him.]

(3) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served on the licensee.

(4) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1910; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

VI. Requisition for supply to owners or occupiers in vicinity.-(1) Where, 2[after distributing mains have been laid down under the provisions of clause IV and clause V and the supply of energy through those mains or any of them has commenced,] a requisition is made by the owner or occupier of any premises situate within 3[the area of supply] requiring the licensee to supply energy for such premises, the licensee shall, within one month from the making of the requisition, 2[or within such longer period as the 4[Electrical Inspector] may allow] supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy in accordance with the requisition:

Provided, first, that the licensee shall not be bound to comply with any such requisition unless and until the person making it-

(a) within fourteen days after the service on him by the licensee of a notice in writing in this behalf, tenders to the licensee a written contract, in a form approved by the State Government, duly executed and with sufficient security, binding himself to take a supply of energy for not less than two years to such amount as will 5[assure to the licensee at the current rates charged by him, an annual revenue not exceeding fifteen per centum of the cost of the service-line required to comply with the requisition], and

(b) If required by the licensee so to do, pays to the licensee the cost of so much of any service-line as may be laid down or placed for the purposes of the supply upon the property in respect of which the requisition is made, and of so much of any service-line as it may be necessary for the said purposes to lay down or place beyond one hundred feet from the licensee's distributing main, although not on that property:

Provided, secondly, that the licensee shall be entitled to discontinue such supply-

(a) If the owner or occupier of the property to which the supply is made has not already given security, or if any security given by him has become invalid or insufficient, and such owner or occupier falls to furnish security or to make up the original security to a sufficient amount, as the case may be, within, seven days, after the service upon him of notice from the licensee requiring him so to do, or

(b) If the owner or occupier of the property to which the supply is made adopts any appliance, or uses the

energy supplied to him by the licensee for any purposes, or deals with it in any manner, so as unduly or improperly to interfere with the efficient supply of energy to any other person by the licensee, or

(c) if the electric wires, fittings, works and apparatus in such property are not in good order and condition, and are consequently likely to affect injuriously the use of energy by the licensee or by other persons, or

(d) if the owner or occupier makes any alterations of, or additions to, any electric wires,

1. Subs. by Act 32 of 1959, sec.40, for the former sub-clause (2).

2. Ins. by Act 1 of 1922, sec. 23.

3. Subs by Act 1 of 1922, sec. 23, for "one hundred yards from any distributing main".

4. Subs by Act 32 of 1959, sec.2, for "Electric Inspector".

5. Subs by Act 32 of 1959, sec.40, for certain words.

fittings, works or apparatus within such property as aforesaid, and does not notify the same in the licensee before the same are connected to the source of supply, with a view to their being examined and tested; 1[but the licensee shall re-connect the supply with all reasonable speed on the cessation of the act or default or both, as the case may be, which entitled him to discontinue it]:

Provided, thirdly, that the maximum rate per unit of time at which the owner or occupier shall be entitled to be supplied with energy shall not exceed what is necessary for the maximum consumption on his premises, and, where the owner or occupier has required a licensee to supply him at a specified maximum rate, he shall not be entitled to alter that maximum, except after one month's notice in writing to the licensee, and the licensee may recover from the owner or occupier any expenses incurred by him by rea1ion of such alteration in respect of the service-lines by which energy is supplied to the property beyond one hundred feet from the licensee's distributing main, or in respect of any fittings or apparatus of the licensee upon that property: and

Provided, fourthly, that, l[if any requisition is made for a supply of energy and] the licensee can prove, to the satisfaction of an 3[Electrical Inspector]--

(a) that 4[the nearest distributing main] is already loaded up to its full current-carrying capacity, or

(b) that, in case of a larger amount of current being transmitted by it, the loss of pressure will seriously affect the efficiency of the supply to other consumers in the vicinity,the licensee may refuse to accede to the requisition for such reasonable period, not exceeding six months, as such Inspector may think sufficient for the purpose of amending the distributing main or laying down or placing a further distributing main.

(2) Any service-line laid for the purpose of supply in pursuance of a requisition under sub-clause (1) shall, notwithstanding that a portion of it may have been paid for by the person making the requisition, be 5[maintained by the licensee who shall also have the right to use it for the supply of energy to any other person].

(3) Where any difference or dispute arises as to the amount of energy to be taken or guaranteed as, aforesaid, or as to the cost of any service-line or as to the sufficiency of the security offered by any owner or occupier, 6[or as to the position of the meter board] or as to the improper use of energy, or in any alleged defect in any wires, fittings, works or apparatus, or as to the amount of the expenses incurred under the third proviso to sub-clause (1), the matter shall be referred to an 3[Electrical Inspector] and decided by him.

(4) Every requisition under this clause shall be signed by the maker or makers thereof and shall be served

on the licensee.

(5) Every requisition under this clause shall be in a form to be prescribed by rules under the Indian Electricity Act, 1910; and copies of the form shall be kept at the office of the licensee and supplied free of charge to any applicant.

7[VII, Further provisions as to laying or service-lines.-The licensee shall, before commencing to lay down or place a service-line in any street in which a distributing main has not already been laid down or placed, serve upon the local authority (if any) and upon the owner or occupier of all

1. Added by Act 1 of 1922. sec 23.

2. Subs by Act 1 of 1922. sec 23, for "in the event of any requisition being made for a supply of energy from any distributing main of which".

3. Subs. by Act 32 of 1959, sec.2, for "Electric Inspector".

4. Subs by Act 1 of 1922. sec 23, for "it".

5. Subs by Act 32 of 1959, sec 40, for "maintained by the licensee".

6. Ins. by Act 32 of 1959, sec 40.

7. Subs by Act 1 of 1922. sec 24, for the former clause VII.

premises ,abutting on so much of the street as lies between the points of origin and termination of the service-line so to be laid down or placed twenty-one days' notice stating that the licensee intends to lay down or place a service-line, and intimating that, if within the said period the local authority or 1[any one or more] of such owners or occupiers require, in accordance with the provisions of the license, that a supply shall be given for any public lamps or to their premises, as the case may be, the necessary distributing main will be laid down or placed by the licensee, at the same time as the service-line.]

VIII. Supply for public lamps.-(1) Where, 2[after distributing mains have been laid down under the provisions of clause IV or clause V and the supply of energy through those mains or any of them has commenced], a requisition is made by the State Government or by a local authority requiring the licensee to supply for a period of not less than seven years energy for any public lamps within the 3[area of supply], the licensee shall supply, and, save in so far as he is prevented from doing so by cyclones, floods, storms or other occurrences beyond his control, continue to supply, energy for such lamps in such quantities, as the State Government or the local authority, as the case may be, may require.

4[(1A) The State Government or, as the case may be, a local authority may require the licensee-

(a) to provide the mains and other equipments for public lamps, and

(b) to use for that purpose supports, if any, previously erected or setup by him for supply of energy.]

(2) The provisions of sub-clause (b) of the first proviso, of sub-clauses (c) and (d) of the second proviso and of the third and fourth proviso to sub-clause (1) and the provisions of sub-clauses (2) and (3) of clause VI shall, so far as may be, apply to every case in which a requisition for the supply of energy is made under this clause as if the State Government or local authority were on owner or occupier within the meaning of those provisions.

Supply by bulk-licensees

IX. Special provisions applying to supply by bulk-licensees.-(1) Where, and in so far as the licensee (hereinafter in this clause referred to as "the bulk-licensee") is authorised by his license to supply energy to other licensees for distribution by them (hereinafter in this clause referred to as "distributing-licensees"), the following provisions shall apply, namely:-

(a) any distributing licensees within the bulk-licensee's area of supply may make a requisition on the bulk-licensee, requiring him to give a supply of energy and specifying the point, and the maximum rate per unit of time, at which such supply is required, and the date upon which the supply is to commence, such date being fixed after date of receipt of the requisition so as to allow an interval that is reasonable with regard to the locality and to the length of the electric supply-line and the amount of the plant required;

(b) such distributing-licensee shall, if required by the bulk-licensee so to do, enter into a written agreement to receive and pay for a supply of energy for a period of not less than seven years of such an amount that the payment to be made for the same at the rate of charge for the time being charged for such supply shall not be less than such an amount 5[as will assume to the bulk-licensee an annual revenue not exceeding fifteen per centum of the outlay] (excluding expenditure on generating plant then existing and any electric supply-line then laid down or placed) incurred by him in making provision for such supply;

6[***]

1. Subs. by Act 32 of 1959, sec.40, for "any five or more".

2. Ins by Act 1 of 1922. sec 25.

3. Subs by Act 1 of 1922. sec 25, for "distance of one hundred yards from any distributing main".

4. Ins. by Act 32 of 1959, sec 40.

5. Subs. by Act 32 of 1959, sec.40, for "as will produce a reasonable return to the bulk-licensee on the outlay".

6. Sub-clause (c) omitted by Act 32 of 1959, sec 40.

(d) if any difference or dispute arises under this clause, it shall be determined by arbitration, and, in the event of such arbitration, the arbitrator shall have regard to the following amongst other considerations, namely:-

(i) the period for which the distributing-licensee is prepared to bind himself to take energy;

(ii) the amount of energy required and the hours during which the bulk-licensee is to supply it;

(iii) the capital expenditure incurred or to be incurred by the bulk-licensee in connection with the aforesaid supply of energy; and

(iv) the extent to which the capital expended or to be expended by the bulk-licensee in connection with such supply may become unproductive upon the discontinuance thereof.

(2) Notwithstanding anything in sub-clause (1), the bulk-licensee shall give a supply of energy to any distributing-licensee within his area of supply applying thereof, even although the distributing-licensee desires to be supplied with only a portion the energy required for distribution by him.

Provided that the distributing-licensee shall, if so required by the bulk-licensee, enter into an agreement to take such energy upon special terms (including a minimum annual sum to be paid to the bulk-licensee) to

be determined, if necessary, by arbitration in the manner laid down in any clause (1) (d).

(3) The maximum price fixed by a licensee for energy supplied to a distributing-licensee shall not apply to any partial supply given under sub-clause (2).

(4) Every distributing-licensee, who is supplied with energy by a bulk-licensee and intends to discontinue to receive such a supply, shall give not less than twelve months' notice in writing of such intention to the bulk-licensee:

Provided that, where the distributing-licensee has entered into a written agreement with the bulk-licensee to receive and pay for a supply of energy for certain period, such notice shall be given so as to expire before the end of that period.

Charges

X. Methods of charging.- 1[* * *]

2[(1)] 3[***] Where the licensee charges by any method 4[approved by the State Government in accordance with section 23, sub-section (3), clause (c), of the Indian Electricity Act. 1910], any consumer who objects to that method may, by not less than one month's notice in writing, require the licensee to charge him, at the licensee's option, either by the actual amount of energy supplied to him or by the electrical quantity contained in the supply, and thereafter the licensee shall not, except with the consent of the consumer, charge him by another method.

5[(2)] 6[***] Before commencing to supply (2) energy through any distributing main, the licensee shall give notice, by public advertisement, of the method by which he proposes to charge for energy so supplied; and, where the licensee has given such notice, he shall not be entitled to change that method of charging without giving not less than one months' notice in writing of such change to the State Government 7[to the State Electricity Board and the local authority (if any) concerned and to the Electrical Inspector], and to every consumer of energy who is supplied by him from such distributing main.

1. First part of clause X up to and including sub-clause (c) omitted by Act 1 of 1922. sec 25.

2. First proviso numbered as sub-clause (1) by Act 1 of 1922. sec 26.

3. The words "Provided, first, that" omitted by Act 1 of 1922. sec 26.

4. Subs. by Act 1 of 1922. sec 26, for "so approved by the Local Government".

5. Second proviso numbered as sub-clause (2) by Act 1 of 1922. sec 26.

6. The words "Provided, secondly, that" omitted by Act 1 of 1922. sec 26.

7. Subs. by Act 32 of 1959, sec.40, for "to the local authority (if any) concerned".

1[(3)] 2[***] If the consumer is provided with a meter in pursuance of the provisions of section 26 sub-section (1), of the Indian Electricity Act. 1910, and the licensee changes the method of charging for the energy supplied by him from the distributing main, the licensee shall bear the expense of providing a new meter, or such other apparatus as may be necessary by reason of the new method of charging.

3[***]

XII. Charge for supply for public lamps.- The price to be charged by the licensee and to be paid to him for energy supplied for the public lamps 4[and other charges to be paid to him in connection therewith] and

the mode in which those charges are to be ascertained, shall be settled by agreement between the licensee and the State Government or the local authority, as the case may be, and where any difference or dispute arises, the matter shall be determined by arbitration.

Testing and inspection

XIII. Licensee to establish testing stations and keep instruments for testing.- The licensee shall establish at his own cost and keep in proper condition such number of testing stations, situated at such places within reasonable distance from any distributing main, as the State Government may direct for the purpose of testing the pressure or periodicity of the supply of energy in the distributing main, and shall supply and keep in proper condition thereat, and on all premises from which he supplies energy, such instruments for testing as an 5[Electrical Inspector] may approve, and shall supply energy to each testing station for the purpose of testing.

XIV. Facilities for testing.- The licensee shall afford 4[to an Electrical Inspector or other person authorized by such Inspector] all the facilities for inspection and testing of his works and for the reading, testing or inspection of any instruments, and may, on each occasion of the testing of his works or the reading, testing or inspection of any instruments, be represent4ed by an agent; who may be present, but shall not interfere with the reading, testing or inspection.

XV. Testing of works.- On the occasion of the testing of any works of the licensee by an 6[Electrical Inspector or other person authorized by him in this behalf (hereinafter referred to as the authorized person)] reasonable notice thereof shall be given to the licensee; and the testing shall be carried out at such suitable hours as, in the opinion of the 6[Electrical Inspector or the authorized person] will least interfere with the supply of energy by the licensee, and in such manner as the 6[Electrical Inspector or the authorized person] may think fit, but, except under the provisions of an order made in case in that behalf by the State Government, the 6[Electrical Inspector or the authorized person] shall not be entitled to have access to, or interfere with, the works of the licensee at any points other than those at which the licensee himself has access to the same:

Provided that the licensee shall not be held responsible for any interruption or irregularity in the supply of energy which may be occasioned by, or required by the 6[Electrical Inspector or the authorized person] for the purpose of, any such testing as aforesaid:

Provided, also, that the testing shall not be made in regard to any particular portion of the works oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the State Government.

1. Third proviso numbered as sub-clause (3) by Act 1 of 1922. sec 26.
2. The words "Provided, thirdly, that" omitted by Act 1 of 1922. sec 26.
3. Clause XI and clause XIA ins. by Act 1 of 1922. sec 28, omitted by Act 32 of 1959, sec.40.
4. Ins. by Act 32 of 1959, sec.40
5. Subs. by Act 32 of 1959, sec.2, for "Electrical Inspector".
6. Subs. by Act 32 of 1959, sec.40, for "Electrical Inspector".

Plan

XVI. Plan of area of supply to made and kept open for inspection.-(1) The licensee shall, after commencing to supply energy, forthwith cause a plan to be made of the area of supply, and shall cause to be marked thereon the alignments 1[and, in the case of underground works, the approximate depth] below

the surface of all his then existing electric supply-lines, street-distributing boxes and other works, and shall once in every year cause that plan to be duly corrected so as to show the electric supply-lines, street-distributing boxes and other works for the time being in position. The licensee shall also, if so required by an 2[Electrical Inspector] cause to be made sections showing the approximate level of all his existing underground works other than service-lines.

3[(2) Every plan shall be drawn to such scale as the State Government may require provided that no scale shall be required unless maps of the locality on that scale are for the time being available to the public.

(3) Every such section shall be drawn to horizontal and vertical scales which shall be such as the State Government may require.]

(4) Every plan and section so made or corrected, or a copy thereof, marked with the date when it was so made or corrected shall be kept by the licensee at his principal office or place of business within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, and copies thereof shall be supplied on such terms and conditions as may be prescribed by rules under the Indian Electricity Act. 1910.

(5) The licensee shall, if required by an 2[Electrical Inspector] and, where the licensee is not a local authority, by the local authority (if any) concerned. supply free of charge to such 2[Electrical Inspector] or local authority a copy of every such plan or section duly corrected so as to agree with the original kept at the principal office or place of business of the licensee.

Additional notice of certain works

XVII. Notice to Electrical Inspector.-On the day next preceding the commencement of any such works as are referred to in section 13 of the Indian Electricity Act, 1910, the licensee shall, in addition to any other notices which he may be required to give, serve upon the 2[Electrical Inspector], or such officer as the State Government may appoint in this behalf for the area of supply, a notice in writing stating that he is about to commence the works, and the nature and position of the same.

1. Subs. by Act 1 of 1922, sec.29, for "and the approximate height above or depth".
2. Subs. by Act 32 of 1959, sec.2, for "Electrical Inspector".
3. Subs. by Act 1 of 1922, sec.29, for the original sub-clauses (2) and (3).